



To enrich lives through effective and caring service



Stan Wisniewski
Director

Kerry Gottlieb
Chief Deputy

AGENDA

MARINA DEL REY DESIGN CONTROL BOARD

Thursday, November 16, 2006, 2:00 p.m.

**Burton W. Chace Park Community Building
13650 Mindanao Way ~ Marina del Rey, CA 90292**

Design Control Board Members

Susan Cloke – Chair	- First District
Katherine Spitz, ASLA – Vice Chair	- Third District
David Abelar – Member	- Second District
Peter Phinney, AIA – Member	- Fourth District
Tony Wong, P.E. – Member	- Fifth District

1. Call to Order, Action on Absences, Pledge of Allegiance and Order of Agenda

The Chair advises all attendees that due to time considerations, the Board may be unable to hear all the items placed on the agenda for this meeting.

2. Approval of Minutes

- August 31, 2006
- October 26, 2006

3. Design Control Board Reviews

A. Parcels 111/112 – Marina Harbor – DCB #06-010-C

Approval of the record of the DCB's August 30, 2006 action for conditional approval of further renovations

B. Parcel 64 – Villa Venetia – DCB #06-015

Approval of the record of the DCB's October 26, 2006 action for conditional approval of redevelopment

4. Old Business

A. Parcel 131 – Café del Rey – DCB #06-019

Further consideration of signage

B. Parcel 19 (20) – New Department Administration Building – DCB #06-004

Further consideration of a new Department Administration Building to be constructed on a portion of Parcel 20 (to be known as Parcel 19)

5. New Business

A. Parcels 95 & LLS – Marina Gateway – DCB #06-022

Consideration of redevelopment project

6. Staff Reports

- A. Temporary Permits Issued by Department
- B. Ongoing Activities Report
 - Board Actions on Items Relating to Marina del Rey
 - Local Coastal Program Periodic Review Update
 - Small Craft Harbor Commission Minutes
 - Marina del Rey Urban Design Guidelines Update
 - Redevelopment Project Status Report
 - Marina del Rey and Beach Special Events
- C. DCB Meeting Schedule for 2007

7. Comments From The Public

Public comment within the purview of this Board (three minute time limit per speaker)

8. Adjournment

ADA ACCOMMODATIONS: If you require reasonable accommodations or auxiliary aids and services such as material in alternate format or a sign language interpreter, please contact the ADA (Americans with Disability Act) Coordinator at (310) 827-0816 (Voice) or (310) 821-1737 (TDD), with at least three business days' notice.

Project Materials: All materials provided to the Design Control Board Members are available (beginning the Saturday prior to the meeting) for public review at the following Marina del Rey locations: Marina del Rey Library, 4533 Admiralty Way, 310-821-3415; Department of Beaches and Harbors Administration Building, 13837 Fiji Way, 310-305-9503; MdR Visitors & Information Center, 4701 Admiralty Way, 310-305-9546; and Burton Chace Park Community Room, 13650 Mindanao Way, 310-305-9595.

Please Note: The Los Angeles County Board of Supervisors adopted Chapter 2.160 of the Los Angeles County Code (Ord. 93-0031 §2(part), 1993) relating to lobbyists. Any person who seeks support or endorsement from the Design Control Board on any official action must certify that they are familiar with the requirements of this ordinance. A copy of this ordinance can be provided prior to the meeting and certification is to be made before or at the meeting.

Departmental Information: <http://beaches.co.la.ca.us> or <http://labeaches.info>



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Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

November 9, 2006

TO: Design Control Board
FROM: *Kerry Silverstrom for*
Stan Wisniewski, Director
SUBJECT: **AGENDA ITEM 3 – DESIGN CONTROL BOARD REVIEWS: DCB REVIEWS
#06-010-C and #06-015**

The Design Control Board's actions from August 30, 2006 and October 26, 2006, respectively, are attached:

- A. Parcels 111/112 – Marina Harbor – DCB #06-010-C
- B. Parcel 64 – Villa Venetia – DCB #06-015

SW:MF:CS
Attachments (2)

DRAFT

Design Control Board Review DCB #06-010-C

PARCEL NAME: Marina Harbor

PARCEL NUMBER: 111 & 112

REQUEST: Further consideration of renovations.

ACTION: Approved, per the submitted plans on file with the Department.

CONDITIONS:

- 1) Applicant shall install three address signs per Exhibit I along Via Marina; two of which are to be sign #8 as submitted, and one of which is to be sign #16. All three are to be lit with a 50-Watt up-light on either side, as proposed in the submittal, for a period of 30 days.
- 2) Applicant shall revise the proposal to renovate the existing monument sign to bring it more into conformance with the proposed signage package with respect to material, configuration and lighting.
- 3) The applicant shall obtain further signage approval from the Department of Regional Planning.

MEETING DATE: August 30, 2006 (Special Meeting)

DRAFT

Design Control Board Review DCB #06-015

- PARCEL NAME:** Villa Venetia
- PARCEL NUMBER:** 64
- REQUEST:** Consideration of redevelopment.
- ACTION:** Approved, per the submitted plans on file with the Department.
- CONDITIONS:**
- 1) That the architect develops and shows prepared drawings that show a more varied roofscape;
 - 2) That the contiguous roof levels are minimized;
 - 3) That greater transparencies be developed at the corners, at the first few floors connecting with the ground, and the link between the disaggregated buildings;
 - 4) That Applicant return with strategies for enhancing the desirability of retail, both to encourage public use and to make sure they are financially viable;
 - 5) That Applicant return with a viable resident-serving retail core at ground level, including a publicly accessible component;
 - 6) That the paseo or the promenade is developed in innovative or compelling ways and provides public amenities;
 - 7) That restrooms are included in the facility;
 - 8) That authentic, sustainable landscape is developed to extend the flora of the adjacent wetlands;
 - 9) That visual linkage to Fisherman’s Village is provided; and
 - 10) That Applicant confirm that if a tidal flow pipe is feasible, it is included in the project plans.
- MEETING DATE:** October 26, 2006



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November 9, 2006

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

TO: Design Control Board

FROM: Stan Wisniewski, Director *Stan Wisniewski*

SUBJECT: AGENDA ITEM 4A – PARCEL 131 – CAFÉ DEL REY – DCB #06-019

Item 4A on your agenda is a returning submittal from Tavistock Restaurants, LLC (Applicant) for new signage at Café del Rey, as the Applicant wishes to update its signage to a more modern look. The last time the Applicant was before your Board, it was suggested that the restaurant owner appear before your Board to discuss design options. Although the actual submittal has not been revised, we do understand the restaurant owner intends to be at your meeting to discuss with you the sign design.

A total of three new signs are proposed, as detailed below:

Sign A – This proposed front elevation sign will be flush-mounted to the existing fascia and comprised of internally illuminated, facelit channel letters and a geometric logo. The logo is 5-inch deep aluminum painted rust orange (PMS 1525U) and khaki (PMS 451U). The mast lines on the orange portion are routed out and backed with #7328 white acrylic.

The letter copy will read "Café del Rey" in a corporate font. The letters are 5-inch deep painted channel aluminum with pre-finished white returns. The letter faces are #7328 white acrylic with a 0.5-inch white trimcap. The overall dimensions of the sign will be 21' wide by 47" high, for a total of slightly less than 84 square feet in area.

Sign B – The proposed monument sign will be double faced and internally lit. It will consist of an 8' wide by 55½" high by 18" thick aluminum cabinet atop an 11'-5½" steel tube support frame. The cabinet will display the same lettering, font and colors as the front elevation sign, with returns and revel painted #41-312 medium bronze. The support poles will also be painted #41-312 medium bronze.

The cabinet will measure approximately 37 square feet in area, which is a little less than half the size of the existing sign cabinet, and the base will be approximately 11'-5½" above grade. As there is a clearance of over 11' under the sign cabinet, there will be no obstructed views of traffic.

Sign C – The proposed parking directional monument sign will be double faced and internally lit. It will consist of a 3' wide by 24" high by 8" thick aluminum cabinet atop a 3'-10½" steel tube support frame. The cabinet will display the same lettering, font and colors as the front elevation sign, with returns and reveal painted #41-312 medium bronze. The support poles will also be painted #41-312 medium bronze.

The cabinet will measure approximately 6 square feet in area, which is a little less than half the size of the existing sign cabinet, and the base will be approximately 4'-9" above grade. As the sign is set back 15' from the road, there will be no obstructed views of traffic.

STAFF REVIEW

The new signage is designed to complement the recent landscape changes approved by your Board (DCB #05-028) to give the restaurant a more modern look. The proposed color palette is attractive, and the masting design on the orange portion of the logo is reminiscent of the sun setting in a marina.

Staff believes the proposed designs will enhance the appearance of Café del Rey and meet the desired design objectives for the Marina. On its preliminary review, the Department of Regional Planning has indicated the signage area and appearance are acceptable. The project is in conformance with the *Marina del Rey Minimum Standards of Architectural Treatment and Construction*. Following your Board's approval, the signage will require further review and approval by the Department of Regional Planning.

The Department recommends APPROVAL for DCB #06-019, with the condition that the Applicant obtain further approval from the Department of Regional Planning.

SW:MF:cs



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Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

November 9, 2006

TO: Design Control Board
FROM: *Kerry Silverstrom for*
Stan Wisniewski, Director

**SUBJECT: AGENDA ITEM 4B - PARCEL 19 - NEW DEPARTMENTAL
ADMINISTRATION BUILDING - DCB #06-004**

Overview

Previously presented to your Board, the Department of Beaches and Harbors (Applicant) is seeking Design Control Board (DCB) conceptual approval at this time for the proposed development of a new administration building on the eastern portion of Parcel 20 (hereinafter referred to as Parcel 19). Applicant will return to the DCB for approval of building architectural details and signage prior to completing the entitlements process.

Background

On February 6, 2002, the California Coastal Commission (CCC) approved development by the current lessee of the Tradewinds Marina (the anchorage) on the waterside of Parcel 20 and the Capri Apartments on the western land portion of Parcel 20 (Phase I), and a new commercial building on the eastern portion of that parcel (Phase II) to replace the existing yacht club, marine commercial offices, associated parking and boater parking. Lessee has agreed to relocate the Phase II redevelopment to Parcel 21 and incorporate it into a new facility (per DCB #05-016, attached). The landside area to be vacated on Parcel 20 (now being referred to as Parcel 19) will allow for the relocation, replacement and consolidation into one facility of the Applicant's administration facilities currently located on two parcels on Fiji Way, dispersed between a shared facility with the Sheriff's station on Parcel 62 and in several trailers on Parcel GG.

Entitlement Background

The proposed development at Parcel 19 is directly related to the proposed redevelopment of Marina Parcel 20, Parcel 21, and Parcels 52/GG. Specifically, as already approved by your Board (DCB #05-016), the uses on the eastern end of Parcel 20 are being relocated onto the end of Parcel 21, a leasehold also controlled by an affiliate of the Parcel 20 lessee. In order to accommodate the development of a dry-stack boat storage facility and other boater amenities on Parcels 52/GG, Applicant's trailers existing on Parcel GG must be relocated. Reuse of the eastern end of Parcel 20 (Parcel 19) with the Applicant's administration facility, therefore, enables the development of Parcels 52/GG, while also allowing for the consolidation of Applicant's administration. A Marina Local Coastal Program (LCP) amendment will need to be

secured to transfer the current designation for Parcels 52/GG, "Public Facility", to Parcel 19 and move from Parcel 20 to Parcel 21 the "Marine Commercial" designation.

Existing Uses

Currently, the eastern portion of Parcel 20 (Parcel 19) contains a two-story wooden building housing a yacht club, assembly area, administration, storage, kitchen (4,585 sq. ft.), office space (2,300 sq. ft.), and adjacent open parking for 231 cars. As mentioned above, these uses will be relocated to adjacent Parcel 21.

Proposed Project

The proposed project includes a five-story above-grade building with parking. The proposed site totals approximately 24,960 sq. ft. and would accommodate 26,000 gross sq. ft. of office space located on the fourth and fifth floors of the administration building and 116 parking spaces located on one level of subterranean parking and the first three floors of the administration building. The Applicant's building massing studies provide for a maximum 56-foot high structure with a total view corridor of 52.66 feet located on both the east and west sides of the structure.

View Corridor

The proposed project site has 192.66 linear feet of water frontage. Two view corridors are provided measuring 22.66 feet (east side) and 30 feet (west side), for a total of 52.66 feet. For a 45-foot high building, the LCP requires a 20% view corridor. For every additional 1.5 feet of height, the LCP requires an additional 1% of view corridor. As the proposed building is 56 feet high, a view corridor of 27.33% (52.66 feet) is required, which the proposed view corridor meets.

Parking

The building would contain one level of subterranean parking, one level of parking at grade and parking on floors two and three. Floors four and five would each contain 13,000 gross sq. ft. of administrative office for a total of 26,000 gross sq. ft. Parking will be accessed directly from Panay Way to the middle of the proposed building for interior parking and to the west side of the building for at-grade parking. The proposed 26,000 gross sq. ft. of administrative office use requires a minimum of 65 parking spaces (1:400 sq. ft. per code); however, Applicant is providing a combined total of 116 spaces to accommodate its public meetings and special events.

Architectural Description, Colors, Materials and Signage

The Applicant is only seeking DCB conceptual approval at this time for the proposed facility. The proposed site and building details and required elevations are not provided at this time, because the Applicant will be seeking proposals for completion of the building through issuance of a Request for Proposals (RFP) designed to elicit quality design alternatives for this unique

waterfront development opportunity and to streamline the development process. Once the site design and architectural treatment alternatives are available, the Applicant will return to the DCB for approval of those elements and public access and promenade signage prior to completing the entitlements process.

Waterfront Promenade

Parcel 19 does not include the waterfront promenade area. The waterfront promenade area remains on Parcel 20 and, therefore, the Parcel 20 lessee remains responsible for the provision of a 28-foot wide improved waterfront promenade along the bulkhead adjacent to Parcel 19, consistent with adjacent parcel developments on Parcels 18 (Dolphin Marina) and 20.

Landscape Palette

Proposed trees include 27 Mexican Fan Palms (*Washingtonia robusta*), ranging from 10 to 20 feet high located around the parking lot, street frontage and building perimeter, four Giant Bird of Paradise (*Strelitzia nicolai*, 24-inch and 36-inch boxes) at the building corners, and nine *Albizia distachya* 'Plume Albizia' (36-inch box), to accent the east, west and south faces of the proposed building. Shrubs and groundcover will include Kangaroo Paw (*Anigozanthos flavidus*), New Zealand Flax (*Phormium tenax* 'Maori Maiden'), Bird of Paradise (*Strelitzia reginae*), Blue Fescue (*Festuca ovina* 'Glaucua'), and Trailing Lantana (*Lantana montevidensis* 'Spreading Sunset').

STAFF REVIEW

This proposal is a request to complete the redevelopment of the eastern portion of Parcel 20 (to be redesignated Parcel 19) by replacing a small existing commercial building with a larger administrative office building for Applicant. In addition to enabling the development of Applicant's new administration facility on the redesignated Parcel 19, approval of this proposal would also allow for the development of a new dry-stack boating facility on Parcels 52/GG.

Required public improvements include a 28-foot wide promenade (20-foot wide fire access lane plus 8-foot wide landscape strip). Special development considerations include height category 3 (45 feet height limit with a 20% view corridor), unless an expanded view corridor is provided and, then, there is a 75-foot height maximum with a 40% view corridor.

The Department of Regional Planning (DRP) and, thereafter, the CCC will evaluate and decide upon the transfer of the LCP-designated "Public Facility" use from Parcels 52/GG to Parcel 20(19) and the relocation of the Marine Commercial uses from Parcel 20(19) to Parcel 21. Although it appears that the view corridor and parking requirements will be met, DRP and CCC will fully evaluate and determine conformity.

Fire access along the waterfront promenade of Parcel 19 will be provided via the 20-foot wide public promenade on Parcel 20, which is acceptable to the Fire Department. The proposed

promenade paving pattern would be similar in texture and color to Parcels 21 and 18. The proposed color palette of various promenade amenities includes three colors: the light poles and fencing are in black; the bollards are in white; and the benches and trash receptacles are in "Blue Spruce". The adjacent Parcel 20 redevelopment (Capri Apartments) has black bollards, with the other items being consistent with those proposed on Parcel 21. The Department of Beaches and Harbors recommends that only two colors of metal accessories be used and that the bollards be painted black rather than white, with, if necessary, reflective devices attached to them. More detail is required for the light fixtures, including the determination of lighting levels proposed for the proposed light fixtures to reduce light spillage against the night sky.. More detail is required to determine the extent of suitable "public promenade" and "public access" signage needed.

Recommendation

The Department of Beaches and Harbors supports the proposed project, which is in conformance with the *Specifications and Minimum Standards of Architectural Treatment & Construction*.

The Department of Beaches and Harbors recommends APPROVAL of DCB #06-004 with the following conditions:

- 1) Paint the bollards black so that there are only two colors for the metal elements along the promenade (lighting, benches, trash receptacles and bollards);**
- 2) Confirm the number and placement of promenade light fixtures and building-mounted light fixtures;**
- 3) Provide design and specifications for added "Public Accessway" signage visible from Panay Way and "Public Promenade" signage along the promenade to encourage waterfront access; and**
- 4) Following completion of the design/build process and PRIOR to completing the entitlement process, the Department shall seek conceptual approval from the DCB for building architectural details and building signage.**



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Kerry Silverstrom
Chief Deputy

Design Control Board Permit DCB #05-016

PARCEL NAME: Holiday Harbor

PARCEL NUMBER: 21

REQUEST: Consideration of a new building and severance of the westernmost portion of the parcel for future use as public parking.

ACTION: Approved in concept with conditions.

CONDITION: The applicant should consider the public benefit in the building layout; access for public parking; adding palm trees against the elliptical façade; and using the highest quality materials for the project.

MEETING DATE: August 18, 2005



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November 9, 2006

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

TO: Marina del Rey Design Control Board

FROM: *Kerry Silverstrom for*
Stan Wisniewski, Director

**SUBJECT: AGENDA ITEM 5A – PARCELS 95/LLS – MARINA GATEWAY
DCB #06-022**

Item 5A on your agenda is a submission by Gold Coast West, LLC (Applicant), seeking conceptual approval of its revised redevelopment plans for Marina Gateway Shopping Center, located along Washington Blvd. between Via Marina and Via Dolce on the northern edge of Marina del Rey. The project location serves as the northern gateway to traffic entering and leaving Marina del Rey.

History and Brief Description of the Proposed Project

The project plan was originally considered by your Board in November 2002 and received conceptual approval at that time (DCB# 02-026). The original plan called for a complete redevelopment of the parcel, including demolition of the 21,119 sq. ft. Marina West development and exterior improvements to the 5,713 sq. ft. Islands restaurant. The approved project included construction of 39,613 sq. ft. of commercial/retail space, for a net increase of 18,494 sq. ft., and was to provide 234 parking spaces, with access from three driveways on Washington Boulevard and from the alley on the south side of the center.

Based upon comments made by the Regional Planning Commission when presented with the initially-approved project, Applicant has substantially altered the project to provide 72 residential units over visitor-serving commercial uses. A revised mixed use development plan was presented to your Board as "Old Business" at its September 2006 meeting, whereat your Board requested that it be continued until the November meeting and come back as "New Business" due to the changes from the previously-approved project. The Applicant is, therefore, now seeking conceptual approval for a revised redevelopment plan for Marina Gateway, including a programmatic change to a mixed-use retail/office/residential project. The proposed changes in scope are outlined below and in the accompanying summary table.

- **Building A** – This building is located at the east end of Parcel 95, near the corner of Via Marina and Washington Blvd and adjacent to Parcel LLS. The approved plan for this site formerly was a new building varying in height from 27 to 42 feet to house a relocated bank and new restaurant. The Applicant has modified the building to accommodate the relocated Islands restaurant and to provide ancillary office and retail uses within two stories and a basement.
- **Building B** – This building, located mid-block between Via Marina and Via Dolce, was initially designed as a 21- to 35-foot high retail and restaurant building. Applicant's current proposal changes the use to a four-story residential (36 units) and retail/mixed-use building, rising to 62 feet high over a basement parking garage.

- **Building C** – This building, located at the west end of Parcel 95, initially was to remain as restaurant use, but now mirrors Building B by providing additional mixed-use residential (36 units) and retail uses.
- **Building D** – This 5,713 square foot building, presently housing the Islands restaurant, will merge into and become a part of Building C.

The conversion of this project from strictly visitor-serving commercial to a mixed-use residential/office/retail project has resulted in a revised total adjusted project area of 109,395 square feet, which represents an increase of 69,782 square feet over the project approved in 2002, as detailed in the following summary table:

PROJECT SUMMARY
 (Area in square feet)

	ORIGINAL PROJECT AREA (2002)*	PROPOSED PROJECT AREA (2006)
Bldg. A	14,903	13,995
Bldg. B	18,997	47,700 ^(a)
Bldg. C	--	47,700 ^(a)
Bldg. D	5,713	--
Park (LLS)	open space	open space
	39,613*	109,395

* DCB #02-026, approved November 2002; existing building area is 21,119 s.f.
^(a) Ground floor retail and two floors of apartments (total of 72 residential units)

- **Public Park (Parcel LLS)** – This 0.225-acre parcel would accommodate a public park, located at the southwest corner of Via Marina and Washington Blvd. Its location will complement another new park approved by your Board and developed by Applicant across Via Marina, on Parcel 97, to enhance the northern gateway to Marina del Rey. The proposed park will include a fountain/water element, a small circular amphitheater, and enhanced signage/landscape/hardscape elements that provide an attractive outdoor area for gathering, entertainment, or for more passive uses. The proximity of the park to the proposed new Islands restaurant will also create synergy for a variety of public uses at the east end of the project.

Parking for the revised Marina Gateway redevelopment proposal will be provided in basement, surface and structured parking for Building A and in basement and structured parking areas within Buildings B and C. Additional rooftop parking will be available between Buildings A and B, linking

them with an attractive bridge. The revised project provides a total of 337 on-site parking spaces, which appears to meet County parking requirements.

Development Rights and Regulations

The Via Marina development zone (DZ) is situated in the extreme northwest corner of the Marina and contains zoning designations and entitlements supporting expansion of visitor-serving and high-density residential properties. The LCP designates the subject Parcel 95 as visitor-serving commercial with a mixed-use overlay, which is intended to provide additional flexibility for development of creatively designed mixed-use projects on selected non-waterfront parcels. Previous decisions by your Board have enabled the allocation of entitlements for all but 72 residential dwelling units within this DZ. As this property is off the water and carries the mixed-use (MUZ) designation, Applicant was encouraged by Regional Planning to consider this opportunity to add residential units to the program for development.

In that Parcel LLS carries the zoning designation of *Public Facility*, the incorporation of a public park would meet the intended land use criteria and, the Department believes, would significantly add to the public's enjoyment of the overall project. In addition, complementary design elements for the park (e.g., water elements and signage) would emphasize the northern Marina gateway effect desired at this entry/exit location for the Marina.

Land Use Context

Parcel LLS is presently operated by the Department as a public parking lot with eight spaces serving the existing visitor-serving uses in the vicinity of Parcel 95. These spaces will be retained and increased within the proposed project while the parcel is otherwise enhanced to provide valuable public open space uses. Parcel 95 currently houses the Marina West Shopping Center, as indicated above.

The project is bounded on the north by Washington Blvd. in the City of Los Angeles, which forms the northern boundary of Marina del Rey. The north side of Washington Blvd. is fully developed with high-density multi-family residential, commercial and office development. On the west, the property abuts Via Dolce, which is also in the City of Los Angeles and corresponds to the western boundary of Marina del Rey. Existing high-rise office uses predominate west of Via Dolce. The project is bounded on the south by an alley and the high density residential (Residential V) Oakwood Apartments. On the east, the project fronts on Via Marina, with existing commercial and adjacent hotel (Marina Marriott) development, which forms the basis for the desired gateway effect to/from the Marina.

Environmental Review Process

Applicant has not yet filed an application with the Department of Regional Planning (DRP) to initiate the environmental review process under the California Environmental Quality Act (CEQA) for the modified project scope. Following your Board's action with respect to this application, Applicant will file the project at DRP, where a full project review, including an environmental analysis under

CEQA, will be completed prior to consideration by the Regional Planning Commission. Significant issues will be fully addressed in the environmental impact report (EIR) to be prepared as a part of its application. As part of that process, the EIR will be circulated to all relevant agencies and will involve interested parties to consider public comment. Major issues to be considered in further analysis to be undertaken will include, but may not be limited to the following:

- Shade/Shadow Effects
- Traffic and Circulation
- Land Use Compatibility
- Public Access
- Light and Glare
- Water Quality

STAFF REVIEW

The revised project embodies the identical architectural character as the 2002 project, with the added residential components and enhanced visitor-serving retail and office arrangement. The Department supports this addition of on-site residential units and the necessary rearrangement of previously-approved uses.

Further building refinements to Building A provide a curved façade to enhance the building aesthetics and to open up views along Washington Blvd. Various design features of the building emphasize its importance at the confluence of two major streets and as the northern Marina gateway. Additional parking will be provided on a bridge connecting Buildings A and B. Buildings B and C will be similar in design, housing ground-floor retail and small restaurant uses. A lobby entrance will be at the center of each building to provide secure access to residential units and tenant parking. All one- and two-bedroom residential units will have balconies, and the exteriors will be smooth plaster with pre-cast accent detailing.

Exterior building lighting will add a sophisticated look to the development at night. Lighting fixtures will be shielded and unobtrusive, yet provide for ample accent of building features and for safety and security. Decorative lighting elements will include softly glowing balconies and decorative wall sconces. Selected trees will have controlled up-lighting, and post-mounted area lighting will accent paths and significant planter areas. Special event lighting will be provided to serve the park area during special events.

The gateway park on Parcel LLS will complement the park area to be provided on Parcel 97, across Via Marina, to enhance the Marina gateway feel. The park will include a fountain, amphitheater seating, a circular stage to accommodate small performances, and hardscape and landscape improvements to enhance this urban park experience. This larger of the two public park areas at the Marina gateway could be further enhanced by the incorporation of significant public art, which requires further consideration by Applicant.

The following public transportation options are available to prospective residents of the proposed project on Parcel 95. The proposed project is served by Metro bus lines 108/358, Culver City bus line 1, LADOT Commuter Express line 437, a Class 2 bike lane on Washington Boulevard, and the Beach Shuttle stops at Via Marina and Washington Boulevard (weekends only, July-September). A map showing existing public transit routes and bike facilities is attached for your reference.

Design Control Board
November 9, 2006
Item 5A
Page 5 of 5

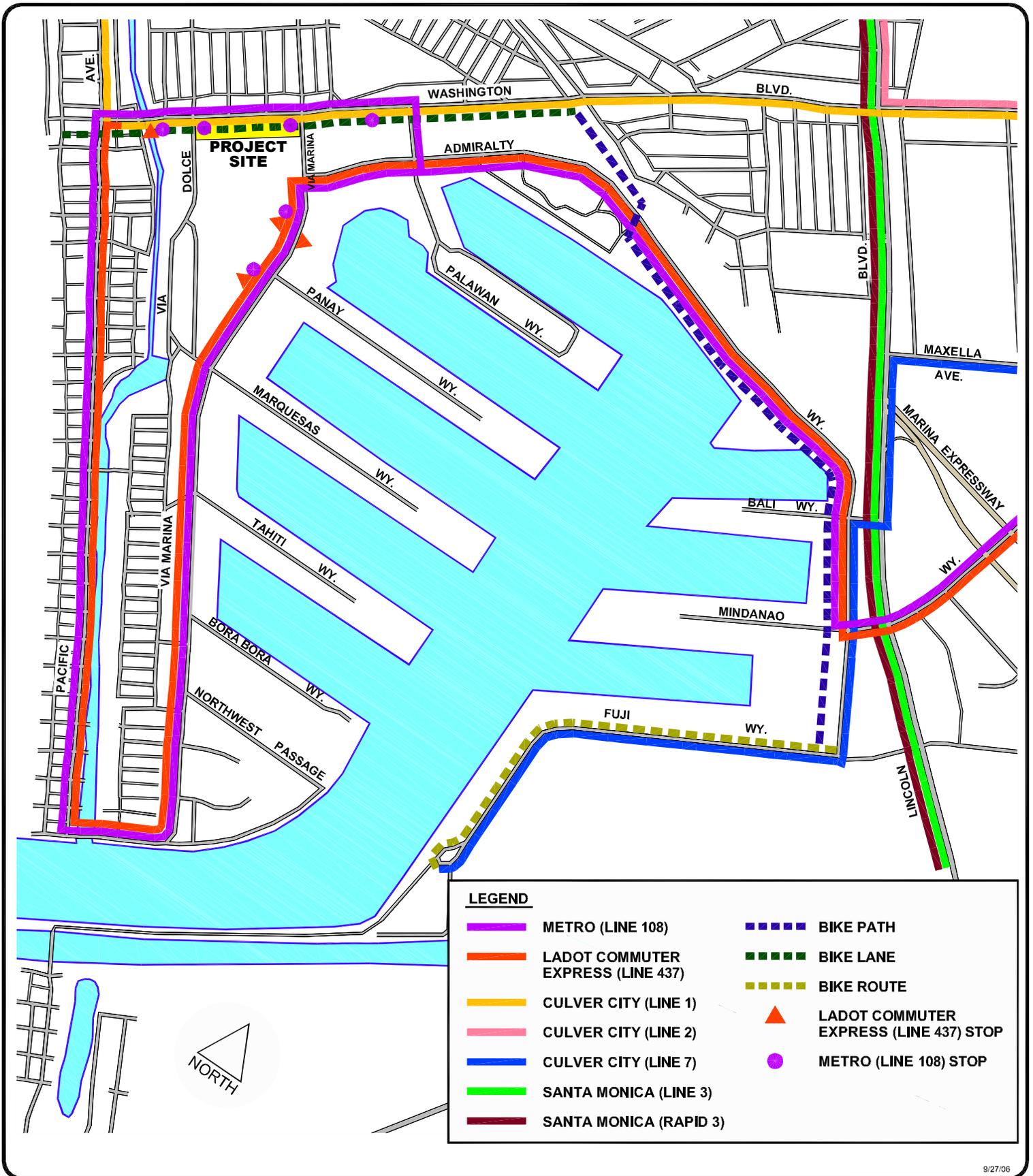
As submitted, the project is in conformance with the Marina's Specifications and Minimum Standards of Architectural Treatment and Construction.

The Department recommends **CONCEPTUAL APPROVAL** of the revised redevelopment project, DCB #06-022, with the following conditions:

- 1) For post-entitlement DCB review, Applicant will provide full project design details for the buildings, promenade, landscaping, signage, lighting, and the provision of public art;
and
- 2) Any subsequent significant use changes shall require further DCB review and approval before continuing through the entitlement process.

SW:MF:ks
Attachment

EXISTING PUBLIC TRANSIT ROUTES AND BIKE FACILITIES





"To enrich lives through effective and caring service"



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

November 9, 2006

TO: Design Control Board
FROM: Stan Wisniewski, Director *Stan Wisniewski*
SUBJECT: **AGENDA ITEM 6A - TEMPORARY PERMITS ISSUED BY DEPARTMENT**

Item 6A on your agenda provides us an opportunity to advise your Board of permits issued by the Department for temporary banners, signs and tents. Since our last report, the Department issued the following:

- TP #06-013 – Temporary permit for one tent on the patio at Sapori Italian Restaurant. The tent is permitted from December 2, 2006 through January 2, 2007.
- TP #06-014 – Temporary permit for one banner at Beyond Beauty Supply in Marina Beach Shopping Center. The banner is permitted from November 1, 2006 through November 30, 2006.

Additional information is provided in the attachments.

SW:CS:cs
Attachments (2)



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October 30, 2006

Stan Wisniewski
Director

Kerry Gottlieb
Chief Deputy

Jill Peterson
Pacific Ocean Management
13575 Mindanao Way
Marina del Rey, CA 90292

**TEMPORARY TENT AT SAPORI RESTAURANT (PARCEL 56)
(TP 06-013)**

Dear Ms. Peterson:

By means of this letter and the appropriate permits from the County of Los Angeles Department of Public Works, Building and Safety Division (310-534-3760) and the Fire Department (310-358-2380), Sapori Italian Restaurant is permitted to place one tent on their patio area at 13723 Fiji Way, Marina del Rey. The tent will be a 20-foot by 25-foot white canopy style with one transparent sidewall on the east side. It will be thirteen feet high at the center and eight feet high at the edges, secured with 70-pound bases at each leg and placed according to the attached site plan.

The tent is permitted from December 2, 2006 through January 2, 2007. The tent must be removed by noon on January 3, 2007. Failure to remove the tent by this time will result in its removal and storage by the County of Los Angeles at your expense. Please note: during this event, public access along the waterfront promenade must be maintained. If you have any further questions or requests, please contact me at 310-305-9533, or Chris Sellers at 310-578-6448.

Very truly yours,

STAN WISNIEWSKI, DIRECTOR

Michael Fischer, Chief
Planning Division

SW:MF:CS

Cc: Wayne Schumaker
Lynn Atkinson
Robert Stassi
Sal Iannotti
Mark Spiro



To enrich lives through effective and caring service



Stan Wisniewski
Director

Kerry Gottlieb
Chief Deputy

October 30, 2006

Jill Peterson
Pacific Ocean Management
13575 Mindanao Way
Marina del Rey, CA 90292

**TEMPORARY BANNER AT BEYOND BEAUTY SUPPLY (PARCEL 97)
(TP 06-014)**

Dear Ms. Peterson:

By means of this letter, Beyond Beauty Supply is permitted to mount one (1) 3-foot high by 6-foot wide banner horizontally from the façade above their premises at 560 Washington Blvd, Marina Beach Shopping Center. The banner will be white vinyl with black and red lettering stating "Beyond Beauty Supply" and "Coming Soon," with a phone number.

The banner is permitted from November 1, 2006 through November 30, 2006. It must be removed by noon on December 1, 2006. Failure to remove the banner by this time will result in its removal and storage by the County of Los Angeles at your expense.

If desired, one consecutive 30-day extension may be granted, provided that the request for such is made in writing to the Department *before* the original permit expires. If you have any further questions or requests, please contact me at 310-305-9533, or Chris Sellers at 310-578-6448.

Very truly yours,

STAN WISNIEWSKI, DIRECTOR

Michael Fischer, Chief
Planning Division

SW:MF:CS



"To enrich lives through effective and caring service"



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

November 9, 2006

TO: Design Control Board
FROM: Stan Wisniewski, Director *Stan Wisniewski*
SUBJECT: **AGENDA ITEM 6B - ONGOING ACTIVITIES REPORT**

BOARD OF SUPERVISORS ACTIONS ON ITEMS RELATING TO MARINA DEL REY

On November 8, the Board approved a \$1.6 million contribution from the Department's Accumulative Capital Outlay (ACO) Fund to the United States Army Corps of Engineers to secure the necessary funding to conduct a full dredging of the Marina's north entrance area from December through March. Combined with the Corps' anticipated \$1.4 million allocation, it is anticipated 255,000 cubic meters of clean sand will be able to be dredged from the north entrance area to return the entrance to its design depth of 20 feet, with the clean sand to be placed offshore of Dockweiler Beach to aid in beach replenishment.

On October 24, the Board approved a fee waiver motion introduced by Supervisor Knabe to waive Marina del Rey parking lot fees on the night of the Holiday Boat Parade, December 9, to encourage public participation in this exciting event.

LOCAL COASTAL PROGRAM PERIODIC REVIEW – UPDATE

We have now been informed that the Marina del Rey Local Coastal Program (LCP) revised periodic review staff report will not be considered by the Coastal Commission any earlier than January 2007.

SMALL CRAFT HARBOR COMMISSION MINUTES

The October 19, 2006 minutes are attached.

MARINA DEL REY URBAN DESIGN GUIDELINES UPDATE

We are pursuing a meeting with the Chair, a Design Control Board member, and Keith Gurnee of RRM Design Group in the latter part of this month or mid December to discuss the scope of our proposed effort to update/expand our urban design guidelines for Marina del Rey.

REDEVELOPMENT PROJECT STATUS REPORT

Attached is a copy of the project status report providing details and the current status of projects in the redevelopment process in the Marina. Copies of this report are also available at the Lloyd Taber-Marina del Rey Public Library and on the Department's web site (marinadelrey.lacounty.gov).

MARINA DEL REY AND BEACH SPECIAL EVENTS

MARINA DEL REY

44th ANNUAL HOLIDAY BOAT PARADE

"Preview Parade" - Friday, December 8, from 7:00 p.m. – 9:00 p.m.

and

"Main Parade" - Saturday, December 9, from 6:00 p.m. – 8:00 p.m.

The Friday evening preview parade will be from 7:00 p.m. to 9:00 p.m. and the Saturday evening boat parade will be 6:00 p.m. to 8:00 p.m.

The "Preview Parade" is an informal parade on Friday without judges, entry fees or fireworks, where boaters can light up their boats and test their displays in the main channel for the "Main Parade" held the next evening.

Fireworks kicking off the start of the "Main Parade" will be shot off the south jetty at 5:55 p.m. on Saturday, December 9. It is estimated that more than 70 beautifully lighted and decorated boats will participate in the event that is free to the public. The theme of this year's parade is "Water Winter Wonderland." Boat owners will compete for numerous prize packages on Saturday evening with the "Best Overall" winning a trip to Tokyo, Japan to judge the illuminated boat parade and contest of Tokyo Bay.

The best spots for viewing the Holiday Boat Parade are Burton Chace Park, located at 13650 Mindanao Way, and Fisherman's Village on Fiji Way, where spectators can see and hear the parade free of charge.

Parking is available in County lots throughout Marina del Rey.

For event information call: The Holiday Boat Parade at (310) 670-7130 or visit www.mdrboatparade.org.

FISHERMAN'S VILLAGE WEEKEND CONCERT SERIES

Sponsored by Pacific Ocean Management, LLC

All concerts from 2:00 pm - 5:00 pm

Saturday, November 4

La Cat, playing Reggae

Sunday, November 5

Upstream, playing Caribbean, Calypso & Soca

Saturday, November 11

Bobby Griffin & Friends, playing R&B and Blues

Sunday, November 12

Son Candela, performing NY style Afro Cuban Salsa

Saturday, November 18

Eric Vincent & The Diamond Cutters, performing Neil Diamond Tribute

Sunday, November 19

Susie Hansen, playing Hot Latin Jazz

Saturday, November 25

Gregg Wright, playing Blues

Sunday, November 26

Bob Desena, playing Latin Jazz

For more information call: Dee Lavell Gilbert at (310) 822-6866.

BEACH EVENTS

PIER LIGHTING

Manhattan Beach Pier

Saturday, December 2

4:30 p.m. – 6:30 p.m.

Join Manhattan Beach Parks and Recreation at its 17th Annual Pier Lighting Ceremony on Saturday, December 2. Event is free to the public and will include live entertainment beginning at 4:30 p.m. and a special visit from Santa. So come and enjoy the music with family and friends.

For more information call: The City of Manhattan Beach Parks and Recreation Department at (310) 802-5420 or visit www.citymb.info.

SAND SNOWMAN CONTEST

Hermosa Beach Pier
Saturday, December 9
9:00 a.m. to 12:00 p.m.

The weatherman says it's nothing but sand, sand, sand! Bring your family and friends, shovels, scarves and mittens because in Hermosa Beach they are making SAND SNOWMEN! This unique holiday tradition is open to all ages and abilities. Come early and mark your spot for the best Sand Snowman! Join in holiday games and trivia. Event takes place north of the Hermosa Beach Pier at the shoreline and check-in begins at 8:45 a.m. with sand sculpting beginning at 9:00 a.m.

For more information call: The City of Hermosa Beach Community Resources Department at (310) 318-0280.

SW:MF:ks
Attachments (2)

**SMALL CRAFT HARBOR COMMISSION
OCTOBER 19, 2006
MEETING**

Commissioners Present

Harley Searcy, Chairman
Russ Lesser, Vice-Chairman
Albert Landini, Ed.D
Christopher Chuang-I Lin, Ph.D

Department of Beaches and Harbors

Stan Wisniewski, Director
Kerry Silverstrom, Chief Deputy Director
Barry Kurtz, Transportation Engineer Consultant

Other County Departments

Thomas Faughnan, Principal Deputy County Counsel
Captain Mary Campbell, Marina Sheriff's Department
Lieutenant Greg Nelson, Marina Sheriff's Department
Sergeant Michael Carriles, Marina Sheriff's Department
Deputy John Rochford, Marina Sheriff's Department

Also Present

Beverly Moore, MdR Convention and Visitors Bureau
Jim Rabe, Keyser Marston & Associates
Richard Volpert, Munger, Tolles & Olsen
David Levine, Del Rey Shores

1. CALL TO ORDER, ACTION ON ABSENCES AND PLEDGE OF ALLEGIANCE

Chairman Searcy called the meeting of the Los Angeles County Small Craft Harbor Commission to order at 9:33 am in the Burton W. Chace Park Community Room, Marina del Rey.

The Commissioners, staff and members of the public stood and recited the Pledge of Allegiance.

2. APPROVAL OF MINUTES

Chairman Searcy moved and Vice-Chairman Lesser seconded a motion to approve the September 13, 2006 minutes. The motion passed unanimously.

3. REGULAR REPORTS

a. Marina Sheriff

-- Crime Statistics

Lt. Nelson reported that residential and vehicle burglaries have increased in September.

Currently, there is no definite pattern to these crimes. Most of the reported vehicle burglaries were stolen laptops, IPODS and cellular phones. Most of the items stolen were in plain view and he emphasized that the community should secure valuable items, which are inviting as targets. Crimes are being committed primarily in underground garages and may be due to a growing transient population in the area.

Lieutenant Nelson reported that the closure of the harbor's north entrance is about 65% concluded. The bouys have been moved out again in order to continuously help people who are stuck. He requested everyone to observe them. Lastly, he stated that when the dredging project begins in early December the entire harbor's north entrance would be closed.

Chairman Searcy encouraged the Argonaut to print an announcement to the public regarding the dredging project.

-- **Enforcement of Seaworthy & Liveboard Sections of the Harbor Ordinance**

Sgt. Carriles reported that the Department completed the process of obtaining the accurate number of registered liveboards in Marina del Rey. During the last 30 – 45 days, every marina in the harbor, including the anchorages, was contacted and a list of all the registered liveboards was received. The process consisted of reviewing the anchorage lists, visiting each liveboard slip and checking names on permits to make sure they corresponded to the names on boat registrations. Staff discovered that when people purchase new boats, relocate and apply for new permits, they end up with two permits on file. To eliminate this problem, the Department obtained the names, boats, and PF numbers from all the anchorages. Currently, there are 333 registered liveboards at the anchorages. Approximately 100 have been verified.

Sgt. Carriles continued, stating that in September four new liveboard permits were issued and three renewals. Since the last Commission meeting, a total of 73 permits have been issued. The Department is posting notices on boats and contacting each marina to obtain an accurate count of slips and registered boats. He noted the problem with the previous procedure was that the end-tie slips were counted as one slip. When officers contacted each individual marina to obtain the number of registered slips and boats, they found a decreased number, thus changing the percentages. As of October 1, 2006, the anchorages and leaseholders reported that they have 4755 vessels and 4850 boat slips. Slips are not reported if they are not available or under construction.

With respect to the concern regarding liveboard slip reductions, Sgt. Carriles explained that percentages were received from each anchorage and staff found that some of the anchorages do not accept liveboards and never have. The anchorages that do accept liveboards were not restricting liveboards unless the lessees were planning to redevelop the anchorages. Sgt. Carriles noted that Bar Harbor Marina is no longer accepting liveboards due to pending redevelopment and does not want to go through the process of evicting new tenants. It is currently at 12%, while others are at 10%, and the Boat Yard is up approximately 25%. The numbers are consistent and the Department did not find any marinas that reduced the number of liveboards unless they were planning redevelopment. For example, the Santa Monica Yacht Club in the last five years went from 15 to 20 liveboards. One of the changes in the number of liveboard slips occurred during the redevelopment of Marina Harbor, where the number of slips dropped almost 50%. There are liveboard slips available on a case-by-case basis.

Sgt. Carriles commented that at a recent meeting he attended, he spoke to representatives from other marinas throughout the state of California. One of the issues discussed at the meeting pertained to the American Disabilities Act (ADA), which is requiring marinas to have larger slips in order to accommodate bigger ramps. The other issue is that older developments that haven't been redeveloped in years can't increase the number of liveaboards they put at a dock. They are only limited to two or three due to power problems. If more liveaboards are added on a dock, the system cannot handle the extra load of electricity, which will trip the breakers.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Ms. Dorothy Franklin stated she has been a legal liveaboard for 23-24 years. She currently lives at Bar Harbor and is a member of the POWER (People Organized for Westside Renewal) community organization of West Los Angeles, which works for issues local people care about. She expressed her appreciation to the Commission for its continued commitment to liveaboard rights.

Ms. Franklin informed the Commission that since its September 13, 2006 meeting, where Chairman Searcy urged POWER to find a remedy to the perceived obstacle in developing liveaboards rights, POWER has taken on the challenge and gained the help of lawyers and researchers to find a solution. She will keep the Commission posted on POWER's progress.

Ms. Franklin commented that at the September meeting she heard Mr. David Levine (of the Lessee Association) state that liveaboards were derelicts. Ms. Franklin informed the Commission that this is untrue and she explained that there are many more liveaboards who live on well-maintained boats and are positive members of the community. She said that Mr. Levine's comments were accusatory, untrue and typifies the sentiment of many of the lessees and dockmasters.

Ms. Franklin commented that the issue is not about race, religion, or political party allegiance. This is about economics. This is an age-old fight that has been fought for many years and involves those who have a lot versus those that don't have very much. For quite some time in the Marina, those with power and money have made the rules. Marina del Rey is a County maintained plot of land and it is the community's duty to find a way for people from all economic backgrounds to live here. Affordable housing on land is one way and liveaboard rights is another.

Ms. Franklin asked the Commission to continue its commitment to work with liveaboards and she expressed confidence in the development of a liveaboard policy that will work in Marina del Rey. Lastly, she commented that there are many liveaboards and boaters who want to attend the Small Craft Harbor Commission meetings but are unable to due to their work schedule. Ms. Franklin requested that the Commission, within the next couple of months, discuss setting up an evening meeting so more people are able to attend. This way the Commission can gain a greater picture of the need for boaters' rights.

Ms. Carla Andrus informed the Commission that she has been a liveaboard for 23 years and is a member of POWER. She explained that she attended the meeting to make sure the discussion on liveaboard rights continues to be a top priority of the Small Craft Harbor Commission. Ms. Andrus thanked Chairman Searcy for both his willingness to allow the organization the time to work on this issue and for his understanding of the importance of

liveboards in Marina del Rey. She commended Commissioner Landini for his initiative and energy, which are very much appreciated. Ms. Andrus stated that policies and long-term solutions are needed as well as the assurance that liveboards have as much protection as possible under current law.

Ms. Andrus asked the Commission to reconvene the arbitration committee for all liveboard evictions and to include liveboards as part of the committee in order to represent a balance of interests and better serve the community.

Ms. Andrus concluded by stating that ample liveboard representation is needed. Liveboards want to be involved in the development of the arbitration committee and to have a moratorium on all no cause evictions until the arbitration committee is reconvened. Ms. Andrus added that she would like for there to be night meetings starting in January, which could be scheduled every other month thereafter.

Chairman Searcy explained that Beaches and Harbors provided a mediation committee in the past; however, the Department of Consumer Affairs (DCA) replaced Beaches and Harbors with DCA's own mediation services. He asked whether anyone has gone through the DCA process or is aware of how it works.

Mr. Wisniewski replied that the DCA provides excellent services. He expressed that he is not aware of any liveboard complaints being filed with that department.

Chairman Searcy asked why, if there is already a process, people are not using it or are stating that it doesn't work.

Ms. Carla Andrus commented that after attending a Commission meeting in 2003, where the issue was discussed, she contacted DCA and spoke with Mr. Rodriguez, who also attended the meeting. DCA informed her that it doesn't have jurisdiction on liveboard situations and she would have to refer the matter to the Small Craft Harbor Commission.

Chairman Searcy asked Ms. Andrus if she actually tried to file a written claim with DCA.

Ms. Andrus answered yes and added that she also spoke to Mr. Rodriguez. DCA informed her that it would not do any good to file a claim because that agency does not have jurisdiction over liveboard rights. She added that if one of the parties is unhappy with DCA's decision, the agency disqualifies the decision.

Chairman Searcy expressed his belief that the Commission didn't have the power to place a moratorium on no cause evictions. He asked whether he was correct.

Mr. Faughnan affirmed that Chairman Searcy was correct.

Chairman Searcy asked Mr. Wisniewski to follow up with DCA and report back on the mediation and claim filing process and whether DCA handles liveboard eviction issues.

Mr. Wisniewski replied this was his first time hearing that Ms. Andrus contacted DCA. The current year is 2006 and she contacted the DCA in 2003. The Commission had representatives from DCA make a presentation. He would have appreciated Ms. Andrus bringing her concerns

to their attention at that time. Mr. Wisniewski stated that he found it difficult to believe there was a situation in which DCA stated it would not handle her case; however, it's possible that Ms. Andrus talked to a DCA employee who stated his office does not handle liveaboard issues.

Vice-Chairman Lesser pointed out that mediation consists of two parties who try to work matters out together. If that doesn't work, the mediator can't bind them to a decision. Secondly, even an arbitration committee can't make someone do something that violates state law. State laws exist and if people are violating state law, they can be prosecuted.

Mr. Faughnan commented that he understands DCA's process to be a voluntary mediation program that attempts to work out differences for consumers and business people who have disputes. He stated that Vice-Chairman Lesser was correct that there is not a binding decision and at this point and time there is no basis to require anything to be a binding decision on these parties.

Ms. Susanne Browne, an attorney with the Legal Aid Foundation of Los Angeles, informed the Commission that she attended the meeting on behalf of POWER. POWER's modest request is for a basic set of protections for liveaboards to address the current crisis of evictions and unaffordable fees. POWER seeks to give liveaboards the option to sign one-year leases, afford liveaboards the same basic legal protection from eviction that tenants enjoy on land and to regulate fees to protect against abusive increases. She said that the Commission has expressed an interest in addressing this issue; however, County Counsel has discouraged any action by the Commission. The memorandum from County Counsel to the Commission expressed a general reluctance with regard to the Commission's ability to protect liveaboards. Counsel's August 3, 2006 memo expressed the opinion that state law does not currently offer liveaboards the same protection as tenants enjoy on land and it deems unlikely that a court would extend those protections. The previous County Counsel memo dated June 5, 2006 expressed the opinion that it is unlikely that an ordinance, rule or policy similar to the 1978 liveaboard protection ordinance would survive a legal challenge. An examination of the cases and a discussion of the Commission's options are warranted, as "we" do not agree with County Counsel's analysis.

Ms. Browne said, in terms of POWER's request, the Villa del Mar case, which examines the County's 1978 liveaboard ordinance, does present a challenge for the imposition of a one year lease and similar eviction protections. The court in Villa del Mar found that the 1978 liveaboard ordinance in essence provided for just cause protections for liveaboards and substantially impaired the lessees rights under a particular provision of their leases to control and create leases of one year or less and that the ordinance failed to address a sufficient social problem. One rather obvious way around the problem, which was not expressed in County Counsel's memo, is to call upon the County to revise the lease terms to incorporate the types of protections that POWER is requesting. A second obvious way around the problem, also not discussed in County Counsel's memo, is to craft an ordinance that differs from the 1978 ordinance based on the court's guidance. The court gave a lot of guidance as to what would be a constitutional ordinance and what would not, and a constitutional ordinance could be crafted. Ms. Browne said that it is clear that the liveaboards, particularly those of limited income, face the same emergency that other low-income tenants in the Marina are facing because of gentrification. The plight of liveaboards is akin to the plight of low and moderate- income tenants the County tried to protect through the rent control ordinance, which was upheld in the accompanying interstate Marina Development Co. case.

Further, Ms. Browne stated that the Commission could certainly structure a set of protections more narrowly than those contained in the 1978 liveaboard ordinance by creating a sunset provision based on the number of evictions or the share of liveaboards on one year leases. This would create a more temporary and targeted approach to the problem following the court's guidance in the Villa Marina case and would have an ordinance that would not interfere with the lessee's contract rights. In terms of POWER's request to regulate the fees, it is not at all clear that any legal problem exist here. In the interstate Marina Development case, it was revealed that the County has exercised its power through leases to ensure that subleases and assignees were charged a fair and reasonable price in light of the fact that the Marina is intended to serve as a public use. County Counsel's overall view of the existing legal status of liveaboards is curious. County Counsel's August 3, 2006 memo correctly observes that the Smith and Derfus cases both treat liveaboards as tenants of real property. Yet, counsel then hypothesizes that state laws regarding residential real property likely do not apply to liveaboards because a slip tenant is actually provided a habitable structure. This analysis seems to ignore the fact there are many cases upholding rent and eviction protections from mobile home tenants who are precisely in the same situation as liveaboard tenants because they are providing their own habitable structure. On September 28, 2006, Governor Schwarzenegger signed AB1169 into law. This is a bill carried by Assembly Member Al Terico with whom she was honored to work on this bill. This bill reinstated the 60-day notice law for tenants so that after tenants have resided in their unit for one year, they are entitled to a 60-day no cause eviction notice.

In conclusion, Ms. Browne commented that County Counsel's August 2006 memo provided that the 30-day notice is still the law for tenants and that there has been no effort to renew this law. She said that the law, in fact, was renewed effective January 1, 2006. Hopefully, with this 30-day provision, County Counsel will recognize the 60-day provision that is afforded to land tenants will also be afforded to liveaboards as a result of this bill. Ms. Browne urged the Commission to agendize the issue of liveaboard rights in the Marina, hold the full discussion that this very important issue deserves, work with liveaboards and the community to craft appropriate recommendations and provide them to the Board of Supervisors.

Mr. Faughnan commented that he had an extensive discussion with Mr. Ben Beach who also represents POWER. Mr. Faughnan welcomed the organization to identify what the actual problem is in the community with respect to liveaboards and to present solutions. Mr. Faughnan commented that he stands by his earlier memos. He also commented that he had informed the Commission that the bill had been approved by the legislature and that it extends the 60-day notice for residential property. He disagrees that it is applicable to liveaboards.

Further, Mr. Faughnan said that, generally speaking, statues relating to residential properties are applicable to boat slip leases in the Marina. He also stands by his assessment regarding the difficulties the County would face in adopting an ordinance that impairs the contractual obligations and rights that are contained in its leases. He agreed that, with respect to controlling prices, it is correct that the leases all have a control prices provision. If the tenant feels he is being overcharged, he can present the matter to the Department and it will review the tenant's concerns. If the rents are found to be unfair and unreasonable, the County has the option of requiring the lessee to change the rents.

Vice-Chairman Lesser commented that he got the impression that POWER is looking for something less than fair and reasonable because the Marina is on public land and POWER

wants subsidized rents. The fact that the Marina is on land owned by the public does not mean that the rent should not be fair market value.

Chairman Searcy commented that he has not seen any proposals from Ms. Browne. He understood that Ms. Browne wanted an opportunity for the organization to study the problem. Chairman Searcy urged the Commission to wait and receive POWER's proposal. He is hopeful that the organization would propose something that is legal, logical, works well with the lessees and is cost neutral to the County.

Mr. Bill Vreszk commented that the Marina is going in the direction of gentrification. He explained that gentrification is defined by people who are displaced. Mr. Vreszk urged the Commission not to forget that if the Esprit construction or Deauville continues at the pace it is going, within a year there will be many homeless people. He stated that no matter how the current developments are presented, with diagrams and photographs of how beautiful Marina del Rey will look, people are still being evicted without cause.

Mr. Donald Klein, president, Coalition to Save the Marina, commented that Sgt. Carriles' information pertaining to the anchorages' ADA compliance was incorrect. Mr. Klein explained that with larger ramps some of the slips are being reduced. There is no ADA requirement that slips be larger. He stated that the Coalition to Save the Marina concurs with the POWER organization and its identified issues, which were eloquently stated by Susanne Browne.

Also, in response to Vice-Chairman Lesser's request at the September meeting for information regarding wrongfully evicted tenants, Mr. Klein read names of tenants who he believed to be indiscriminately dismissed from the Marina: Tom Duffy, Gail Eddy, Bill Bob Barney, Al Levine, Gene Hawkins, Tricia Ray, Mario Silva, Jeanie Chow, and Jose (doesn't have last name, but does have his phone number).

Ms. Michelle Summers thanked the Commission for the opportunity to speak. She stated that she is aware of several liveaboard tenants who lived at Panay Way Marina for more than twenty years and who were evicted because of the redevelopment. Ms. Summers commented that she does not like seeing the elderly get evicted from the Marina, as they are no longer working and are struggling on fixed incomes. She stressed that the redevelopment projects must be done in an intelligent way. Access must be kept open to all people who have been here for years. She asked the Commission to seriously think about the issues of liveaboards, their property not being protected and not having the same rules as other citizens of the United States. Lastly, Ms. Summers stated that no one wants the Marina to be worse than it is. Members of the community want the Marina to get better and be a jewel in the County. She would like the Commission to continue working with community groups and have an open mind so that there can be a legal solution.

Mr. Edward Nash thanked the Commission for its time. He stated that he has lived in the Marina on and off since 1968 and always paid his rent on time. He was a tenant at the Boat Yard for 7½ years as a non-liveaboard. Six months ago he started staying on his boat more often and was asked by the dockmaster to become a liveaboard. The dockmaster requested that Mr. Nash get insurance, registration, have his boat surveyed and pay a liveaboard fee. Mr. Nash commented that a boat survey wasn't required when he was a non-liveaboard. As requested, he had two surveys done, one for in water (passed), and one out of the water (not passed). Mr. Nash expressed that he thought the surveyor and the dockmaster were working

together. Mr. Nash was required to provide a lot of incidental paperwork that would have cost him \$1000. Because he could not pass the survey, he was forced to leave.

Mr. Nash stated that he checked with all of the marinas for a slip and was asked the age of his boat, which is 1964. He was informed by most of the marinas that they either didn't have any room or his boat was too old. Mr. Nash stated it was difficult to find a slip and hard to find a lawyer to mount a legal challenge. He commented that he was a good tenant at the Boat Yard and October 19, 2006 was his last day.

Commissioner Landini commented that most of Ms. Browne's arguments with County Counsel concerned disagreements over points or facts that could possibly be presented to a judge and had little to do with what the Commission is doing at the meeting. He concurred with Vice-Chairman Lesser that the original POWER document talked about subsidized rental rates as an approach to enforcing the Mello Act. It was clearly stated that one of the goals of POWER was to have lower fees charged to tie up than the normal market demanded. He said that an attempt was made to bring an initiative to the Board of Supervisors for its consideration, but the Commission did not approve the initiative and instead instructed the involved parties to develop a proposal or legislation, as the issue is a statewide problem and County Counsel advised that the matter could not be resolved at the County level. Commissioner Landini said that he anticipates receiving from POWER a good report with factual information and proposed legislation that the Commission could evaluate and consider for Board recommendation.

Vice-Chairman Lesser commented that no one likes the idea of people indiscriminately being evicted and he sees this as a real problem. It is not logical business sense to evict good tenants. He requested Mr. Klein to submit to the Department the list of evicted people that Mr. Klein mentioned in his testimony. The Department could then investigate the matter and report back to the Commission.

b. Marina del Rey and Beach Special Events

Chief Deputy Director Kerry Silverstrom [who replaced Mr. Wisniewski until he arrived at the meeting] encouraged the Commission to review the report. She highlighted the Kayaking Adventures and commented that September 16, 2006 is the last date for this activity, which has been magnificent.

c. Marina del Rey Convention and Visitors Bureau

Ms. Beverly Moore informed the Commission that the Convention and Visitors Bureau concentrates on several basic roles, which include building a stronger awareness of the Marina and promoting it as an attractive place to visit; acting as a central source of travel information; making suggestions for improvements in local services and facilities and acting as an advocate for some of those needs. Hospitality businesses now are reinvesting in the Marina. She noted that the Marriott has just spent \$10 million on its property; likewise, the Ritz Carlton is investing approximately \$7 million now and \$3 million shortly to make improvements on that property. Both of these properties were in need of improvements, which were long overdue.

Ms. Moore said that the Marina del Rey Hotel and the Marina International Hotel have been sold and the new owners plan to upgrade those facilities. In addition, the Jamaica Bay Inn will expand a number of its rooms in mid 2007. As the Marina moves forward with its second

generation redevelopment, the bureau's Board of Directors wants to make sure that there is a corresponding public sector commitment to upgrade the Marina's public infrastructure and to make it a better and nicer place for residents, local workers and visitors. She stated that the Marina is a beautiful place but it does need some tender loving care. Ms. Moore commented that the waterfront at certain points on the sidewalk narrows down to less than four feet wide and is too small to push a wheelchair. When trying to get to the Charthouse from the Marina del Rey Hotel, there are some parts that have no sidewalks at all. Residents and visitors have made complaints of not being able to walk further before encountering a gate or locked fence. Parents are unable to navigate strollers around utility boxes on Palawan Way and Admiralty Way. The street medians are well lit at night, but women state that they feel uncomfortable walking from the Café del Rey to the Ritz-Carlton or the Marina del Rey Hotel to the Warehouse.

Ms. Moore stated that the Visitors Bureau's Board believes that the Oxford Basin, which is approximately 10–12 acres of land between Admiralty and Washington Way, should be converted into a park for passive recreational use, such as nature trails, and the Board hopes that more attention can be paid to maintenance such as cleaning out the debris, stumps and concrete. She said that Beaches and Harbors has shown an interest in this suggestion and has already opened up dialog with the Department of Public Works, which manages this area. She stated that she hopes the initial plans and planning process of the physical improvement at Mothers Beach can be accelerated and put into action now.

In conclusion, Ms. Moore expressed that the Marina del Rey leaseholds generate more revenue for Los Angeles County than actually spent to maintain repairs and with increasing development "we must do our share." The purpose of this community is to be able to support the greater desperate needs of the County public service system, including the regional health system and other needs. As the private sector pours hundreds of million of new dollars investing in the Marina, she hopes the County will direct more funds back into the Marina. Ms. Moore stated that it is not just about tourism, it's about community pride, improving the quality of life for residents, local workers and tourists; more importantly, to do as much as possible to protect County assets, the interest of local residents and business improvements the County is encouraging. She noted that the bike trail is getting new signage this month and will be re-stripped this fall, which is an important transportation need in this community. Also, Beaches & Harbors will be repainting all the directional and monuments signs, which will be much easier for people to navigate through the community. Lastly, Ms. Moore stated that she appreciates these improvements in the community and she is pleased about the new pocket parks on Via Marina and Washington Blvd that will act as nice gateways from the north.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Bruce Russell of the Marina City Club was glad to hear banners were posted that advertised the waterside walk. He said that the walk path has been tremendously popular especially on Saturday mornings. He pointed out that the California Yacht Club could quite easily extend the walk from its parking lot. When the California Yacht Club closes down its part of the walk, the other restaurants catch the traffic of the pedestrians. The result is that the leisure walk is then forced out onto Admiralty Way with streaming traffic. Lastly, he commented that Mariners Village has the loveliest water walkway in the area and it was a giveaway to the developers and he is sure it would not be easy to restore to the public.

Ms. Andrea Daroca, Marina resident, thanked Ms. Moore for her presentation, especially the idea of returning funds to Marina del Rey. She noted that the duck pond on Admiralty Way needs maintenance. It is filthy, birds are dying and the water is totally green. This could be a masterpiece for the Marina and should really be looked at.

Chairman Searcy requested Mr. Wisniewski to investigate Ms. Daroca's concern.

4. OLD BUSINESS

a. **None**

5. NEW BUSINESS

a. **Traffic Mitigation Measures within Marina del Rey Area – Quarterly Report**

Mr. Barry Kurtz, Transportation Engineer Consultant, reported that he contacted Caltrans on the Lincoln Blvd. Project and was informed that the project was delayed due to environmental factors, such as nesting birds between LMU and Culver Blvd. Since then, the birds have left and are no longer an issue. The controlling work now is the construction of the corridor under Lincoln Blvd. A box is being built so the migration of animals can take place from one side of Lincoln Blvd. to another. There are certain issues associated with that work that make it very difficult, such as the swell conditions and the sub water conditions. The estimated completion date is December 2007 and staff is still on target. Lastly, northbound at Lincoln Blvd and Mindanao, a turn lane is in the process of being made but is delayed due to the removal of utilities in the median as well as waiting for Edison to remove the lights.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Ms. Nancy Marino commented on the list of Completed Transportation Improvements' item #7 (water shuttle). She said that it is not mitigation for traffic as long as it is operated and promoted as a tourist attraction limited to summer weekends and special occasions. After Labor Day this program ceased to operate. Until the water shuttle can be relied upon as an alternate means of transportation, it belongs more appropriately under the Proposed Transportation Improvements section of Mr. Kurtz' report. Relative to #2 and #3 on the list of Proposed Transportation Improvements, by law, the EIR/EIS must consider not only the two alternatives mentioned in this report but also the no project TSM/TDM alternatives for Admiralty Way. The County persistently neglects to include these alternatives in published documents, dating back at least to the third public scoping meeting last spring, despite repeated public reminders.

Ms. Marino stated that presenting five or six lane alternatives as exclusive options not only misinforms the public but strongly suggests that the County has preordained one of these two outcomes before public input has been completely accepted and before the EIR/EIS analysis have been considered. She stated this is a clear violation of public policy and may be a violation of the law. Proposed Transportation Improvement #8 will place the South Bay Bicycle Trail outside Marina del Rey. Area A was officially removed from Marina del Rey's jurisdiction back in the 1990's. The Local Coastal Plan (LCP) does not provide for mitigation whereby the SBBT may be moved off site for the purpose of circulating more cars in the Marina. She commented it is an inconvenient routing and would discourage use of the trail for both recreational use and use as an alternate transportation mode. She asked the Commissioners to

recommend revision of this item to an on-site bike trail.

With respect to Proposed Transportation Improvement #13, Ms. Moreno commented that a demand response shuttle might serve the residents of Playa Vista well; however, nowhere in the entire report does it mention the Marina del Rey Shuttle, which is specifically required by the LCP as part of Phase II Redevelopment. None of the Marina projects to date have included this requirement. Piggybacking a few Marina stops onto the Playa Shuttle shortchanges both the Marina and Playa Vista residents. Shuttle systems are required mitigations for each community. Certainly both systems could and should be combined to provide greater and more frequent service to both communities with maximum economy, but it is not acceptable to substitute one system or mitigation in place of the required two.

Mr. Fred Newman commented that he didn't understand why the Department of Public Works is spending a tremendous amount of money on building the 90-freeway. He stated that this money could be spent instead for improvements on the bridge located on Lincoln Ave., and on widening the lanes. He commented that bicyclists on Admiralty Way could be removed. There are other areas to ride with no problems. Lastly, he expressed his understanding that the Department of Motor Vehicles is able to restrict bicyclers because they create problems in traffic and accidents occur daily.

Vice-Chairman Lesser asked Mr. Kurtz the proposed route for the bike path.

Mr. Kurtz answered that there is a controversy about bikes in the community. A bike path with no cars is considered safe. If kids are in the bike lane, they have to be aware of cars. Bicyclists have the right to be on any roadway as long as they don't interfere with the flow of traffic. There's been a question as to whether bike lanes actually serve as a safe environment for the bicyclists given that bike lanes provide some bikers a false sense of security.

Mr. Kurtz stated that the County of Los Angeles submitted a proposed Fiji Way gap closure for the South Bay Bike Trail in the 2003 Call for Projects, which means the County tried to get funds from MTA to remove it from Fiji Way. The California Highway Patrol and the Sheriff's provided information on the unsafe conditions on Fiji Way due to the road not being long enough to paint the bike lane and bikers riding in the car lane causing both difficulty to motorists and danger to themselves. There is a possibility that Fiji Way can be widened to provide a bike lane. The off bike path along Fiji Way would be parallel and adjacent to the south curb of Fiji Way and along the backside of the parking lot from Admiralty Way.

In conclusion, Mr. Kurtz informed the Commission that every EIR requires the no build alternative and the pros and cons of each alternative, including the no build alternative, will be evaluated.

b. Overview of Marina del Rey Development Projects

Ms. Kerry Silverstrom reviewed the Marina del Rey Redevelopment Projects Status Chart and the colored Marina del Rey Redevelopment Status Map distributed to the Commission. She explained that these materials provide a brief status of the projects whether in negotiations or proceeding through the regulatory process. The map was available to the public at the meeting and can be found on the Department's website, www.bh.lacounty.gov.

Chairman Searcy commended staff on the material.

Commissioner Landini requested that the color key that's on the map also be placed on the chart. This would quickly show the status of a project.

Further, Commissioner Landini requested that the Argonaut print this information on a monthly basis. Chairman Searcy suggested that Mr. Wisniewski assist the Argonaut in this effort.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Ms. Carla Andrus thanked Commissioner Landini for his suggestions. She requested a status report on Phase I. She would like accountability for some of the amenities that have been promised. Parcels 18 (Dolphin Marina) and 20 (Panay Way) are missing a couple of covenants that are not in place and are a serious issue. She requested the status of Parcel 20 and commented that Parcel 18 seems to be totally ignored. The lessee is not complying with the law and no covenant is in place.

Ms. Andrus also expressed that public transit bicycles and shuttle buses were supposed to be mitigated by Goldrich and Kest. She commented that Marina del Rey should not mitigate its responsibility by piggy backing on Playa Vista. Marina del Rey deserves to have its own shuttle system and Phase I is supposed to be delivering that. She said that, although Supervisor Knabe is using his discretionary funds, she doesn't feel he has used enough. This was promised and it was supposed to mitigate the fact that there are many senior citizens. Ms. Andrus stated there is a lack of parking on Parcel 18 for senior citizens. She would like Phase I looked at closely because "when we look forward to Phase 2 we want to see and be guarded of the problems that occur." Ms. Andrus stated that the Capri did not want to provide affordable housing. The public had to fight for it. Parcel 18 has not provided its promise. There was never a hearing to notify the public that anything had been changed, there was simply a write off by Mr. Richard Weiss, from the County Counsel office.

Ms. Nancy Marino stated that the map key on the Redevelopment Project Description Status Chart does not correspond with the numbers on the map and is confusing. She commented that the more she looked at the map key, the less she understood redevelopment.

Ms. Marino said that at previous meetings with the Design Control Board, a request was made to provide information on the existing development and square footage so there would be a basis for comparison. This has not been done. Ms. Marino also recalled that Commissioner Landini requested existing development to be included on the status report.

Ms. Marino pointed out that no square footage totals were listed for the proposed redevelopment. She referred to Map Key #9, which identifies a 72-unit apartment complex, 10,000 sq. ft. restaurant, and 22,400 sq. ft. commercial space, but neglects to mention the approximately 200,000 sq ft. There is no way to compare what is proposed to what exist now, nor is there any way to track what the changes are as projects are revised. She expressed this is important in assessing what the development should be. Lastly, under regulatory matters, there is no mention that an LCP amendment is needed or proposed. It is misleading to state, "LCP amendment to allow proposed use." Again, it is misleading to the public and it is very important that the communication be clear and accurate.

Ms. Andrea Daroca informed the Commission that what is being heard from speakers is their confusion. She commented that the staff material is great if the projects are understood. She recommended that a public workshop be conducted so that citizens can understand, ask questions, and not just have three minutes to talk. She stated that the community might possibly even lend its support if a workshop were held but, for now, documents are handed out and no one understands them.

Chairman Searcy commented that several good points were brought up in terms of difficulty in reading the map and chart. He concurred with Ms. Marino's comment that the chart should note when an LCP amendment is required.

Mr. Wisniewski agreed to consider the speakers' comments and he expressed that he welcomed their comments.

In response to the request for a workshop, Chairman Searcy explained that a workshop was conducted in the past; however, he was disappointed in it. The workshop had several presenters, including members of the development community, environmental consultants and transportation consultants. The Commission encouraged members of the public to remain after the presentations to ask questions, but they left. Chairman Searcy said that if another workshop is held, the public should remain after the presentations to ask questions. Despite his disappointment in the previous workshop, he commented that conducting another workshop is a good idea and the Commission plans to schedule one in the future.

c. Option for Amended and Restated Lease to Facilitate Redevelopment – Del Rey Shores – 4201 TO 4261 Via Marina, Marina del Rey (Parcels 100/101)

Mr. Wisniewski reviewed the draft letter to the Board of Supervisors recommending approval of the Option for Amended and Restated Lease for Parcels 100 and 101, Del Rey Shores. He also explained the supplemental memos provided to the Commission, which contained additional or corrected information to the Board letter. The Board letter corrections include the correct amount of minimum annual rent, which is \$252,733, and that all categories of percentage rent will be renegotiated in the 30th year following completion of construction, not the 20th year. Information to be added to the Board letter include that in years 16-27, it is possible that the County can receive additional rent beyond its 10½% of gross receipts should certain gross rent thresholds identified in the October 11th supplemental memo be exceeded. He also explained that the construction cost figure changed to \$132,643,000 to reflect increased construction costs. Page 8 of the Board letter stated that the total rent derived from Parcels 100/101 during fiscal year 2006 was approximately \$385,000. After construction, annual rents at stabilization are expected to be approximately \$1,715,000, an increase of approximately \$1,330,000. The lessee shall receive an \$11.05 million credit, which accrues interest at the County Pool Rate for 10 years from the completion of first phase construction, and which may be used to offset Construction Period Rent, Minimum or Percentage Rent, or Lease Extension Fees. The credit is being provided in recognition of construction cost increases and the cost of providing affordable housing.

Mr. Wisniewski described the proposed project covered by the Option agreement: 544 new apartments, including 37 moderate-income units and 17 very low-income units would be built

with the existing 201 units being razed. Should the lessee exercise the Option, the term of the lease would be extended to July 31, 2063. Mr. Wisniewski explained that the Restated Lease would also establish a replacement reserve to ensure there is on-going capital improvements to the property as well as renovations, provide for the County's participation in the sale or refinance under specified conditions, and include the County's right to recapture the parcel after the end of the current lease; the modernized "baseball" type arbitration in all new deals; a 6% late fee plus interest for any late payments; submittal of CPA certified annual gross receipt statements on an annual basis; and \$100 per day per cited maintenance deficiency for each deficiency that remains uncorrected after a specified cure period. The County will be reimbursed for its administration and negotiation costs incurred during the negotiation of the lease extension.

Vice-Chairman Lesser asked if the project required a Local Coastal Plan amendment and if it is in compliance with what the LCP requires.

Mr. Wisniewski replied that was correct.

Commissioner Landini expressed concern regarding how people with low and moderate incomes will receive information about the availability of units.

Chairman Searcy questioned whether there were any current moderate or low-income tenants in the units and, if so, how many and the process of obtaining these units. He suggested that before accepting any outside tenants, the lessees should give all existing tenants the first right to return.

Mr. Wisniewski responded that he would contact the Community Development Commission to request that a representative attend a Small Craft Harbor Commission meeting to present information.

CHAIRMAN SEARCY OPENED THE FLOOR TO PUBLIC COMMENT

Mr. Charles Hicks said that he resided in Manhattan Beach and lived in an apartment building near the water, which shared a common patio. He stated that progress is not necessarily progress and it should be a human scale environment, which has been substituted for greater income. He suggested that during Commission deliberations in the future, there be an effort to keep plans human friendly and human oriented, and a proportional series of construction.

Mr. Eugene Haberman, president of the Homeowners Association and resident of a condominium on Via Dolce that's immediately adjacent to the Del Rey Shores Project, stated that his group has opposed the project at various regulatory hearings. Currently, the project is approved pending the final EIR. He said that the Commission assumes the project will be approved; however, he wanted members to know that there is one significant problem, which are the traffic studies upon which the EIR is based. They are inadequate and obsolete. They don't take the new construction into account. He suggested that the Commission look at the construction adjacent to Lincoln Boulevard. The traffic is untenable and out of whack. The Commission's consideration of the lease at this time is premature.

Commissioner Landini asked Mr. Wisniewski if there is a master EIR for the Marina's Local

Coastal Plan.

Mr. Wisniewski responded that he would have to find out and report back to the Commission.

Mr. Wisniewski commented that it is most important to realize that the decision today is on the proprietary side and does not impact anything on the regulatory side. Lastly, the Option cannot be exercised until required entitlements are obtained.

Mr. John Rizzo, president of the Marina Tenants Association, stated that the Commission does not have any information to approve this lease. There must first be due diligence and in order to have due diligence the Commission must know what the County is receiving, the lessee is receiving and what the tenants are paying. He stated that in order for this to be done, the Commission should know the land value, price per square foot, and have an appraisal to support the information. He asked what the County is getting as a percentage and what is the standard amount, what is the lessee getting in return, what is the return on investment and whether it is fair. Lastly, he asked are there any controls on the project and will it be a fair and a reasonable return; this information should be documented.

Vice-Chairman Lesser requested that staff explain the negotiation process and what it was based on.

Mr. Wisniewski explained that every deal negotiated is based on fair market value. Before any information is submitted to the Board of Supervisors it has to be appraised. He said that the appraisal has been completed and an update is in process.

Mr. Faughnan stated that the information is not subject to disclosure pursuant to the Public Records Act until the deal has been consummated.

Chairman Searcy asked whether the public could review the appraisal summary.

Mr. Faughnan replied no it could not.

Mr. Jim Rabe, Economic Consultant for the County, explained how the returns to the developers were determined. According to Mr. Rabe, the developer's return for this project is based on returns for similar current projects, which are about 7% on costs and 9% on a long-term basis. Neither return for the developer is excessive. Independent appraisers are currently evaluating the economic structure of the project based on an affordable housing component that was added to the project after the initial Term Sheet was signed. The County has determined that the developer is entitled to about \$11,000,000 in compensation, \$7,000,000 of which is attributable to a loss in value from the inclusion of affordable housing and \$4,000,000 of which is attributable to increases in construction costs.

Ms. Andrus stated that she would like to see what the Community Development Commission has to present regarding this matter. She stated she has applied for the Admiralty Apartments and was informed it is not accepting any names for the affordable housing units nor is Doug Ring, who is already issuing eviction notices to tenants at Bar Harbor. She has been told it will be a lottery, which is unfair in the Marina since hundreds of people are being displaced. Del Rey Shores housing and the replacement housing offered are not adequate. Lastly, Ms. Andrus commented that it has to be fair and a bid is needed. This project should not go forward, this

company has not proven itself to be a good neighbor in the Marina and she would like other developers to be considered.

Ms. Marino asked the Commission to continue the Del Rey Shores' item until some major elements of the projects have been resolved. She also commented on "4201-4261 Via Marina Development Project" on page 5 of Section 4.3.2, which states that preliminary plans and specifications shall be deemed approved if the director fails to disapprove within 21 days after submittal. Ms. Marino commented that, considering the current backlog of projects and considering that the director is acting as a partner in these development proposals, she would like the Commissioners to consider recommending the Board of Supervisors to amend the language of this section to be similar to that of Section 4.3.1 regarding schematics approval, which provide that failure of the director to approve shall be deemed disapproval and the time period allowed is 60 days not 21 days. Ms. Marino stated that this is very important for the process of approving projects.

With respect to the \$11,050,000 allowance given to the lessees and the \$4 million regarding delays, Ms. Marino commented that the delays are from the County's lack of clarity. These projects should not be submitted until clarified. She asked what allowance is paid to the 201 existing tenants for their relocation. Ms. Marino said that the city of Los Angeles assists tenants with relocation and Marina del Rey should do the same.

Relative to testimony that the fair market value of the appraisal is currently being updated, Ms. Marino stated the lease option binds the County to specific performance, which the County may or may not be able to provide, and may not be an adequate lease based on information determined by County contractors. She also commented on Percentage Rents, Section 4.2.2, on pages 23 and 24, which lists eleven items identified as "termed reserves," which mean this information is not being given to the public. Ms. Marino asked how this is determined and what qualifies it to be reasonable. She commented that the tenants are relying on the Commission to do independent assessments, make the proper recommendations to the County and consider all these issues.

Chairman Searcy asked Mr. Wisniewski how long negotiations on this particular transaction have been going on.

Mr. Wisniewski replied approximately in excess of one to two years.

Mr. David Levine confirmed that the total time has been approximately 5½ years.

Chairman Searcy asked if there is anything to be added at a later date.

Mr. Faughnan responded that if there were an amendment to the lease to provide for a new use, it would be given to the Commission for review.

Mr. Klein stated that, per his attorney Richard Fein, the proposed lease is void. Article 16, Section 6 prohibits the gift of public funds to private individuals. The proposed lease contains Section 11.1.2 page 73, Article 11, which states: "notwithstanding any contrary provision of this Article 11, Lessee shall not be required to obtain County's approval of any sublease of any individual apartment unit in the ordinary course (but not the master lease of multiple units) to a person or persons who will physically occupy the subleased unit as long as such sublease is in

the form of the standard residential apartment lease and the terms of such sublease does not exceed eighteen (18) months. Upon request by the County, Lessee shall furnish County with a current rent roll respecting the Approved Apartment Leases and a copy of all of such Approved Apartment Leases.”

Mr. Klein said that, in the case of the Coalition of Save the Marina versus the County of Los Angeles, Section 11.1.2 of the Restated Master Lease with Marina Pacific Associates is nearly identical to the proposed lease but for the length of time one year versus eighteen months. Subsection 11.1.2 states, “the lessee shall not be required to obtain the County’s approval of sublease of any individual apartment or boat slip or any ordinary force to a person who will physically sublease the unit.” The County demurred to the Second Amendment intending it should not be part of the lawsuit that did not control the rent of subleases, which is not under the master lease, and admitted on Page 5 in Sections 1–7 of the memo, dated September 7, 2006, as follows: “the County does not have the right to approve, disapprove or reject MPA boats as tenants. As such the County has no ability to evict or direct the eviction of Mr. Hoffman or any other boat slip tenant.” Lastly, Mr. Klein stated the County has no authority under the master lease to direct and cannot renegotiate a void lease.

Mr. David Levine (representative, Del Rey Shores) commented on the human size relationship and scale points. He stated that this project is actually 13% lower than what is permissible under the certified Local Coastal Program (LCP). In the LCP, buildings can range up to 225 feet high and the height of this building is 75 feet. The impact of this project could have been greater under the certified LCP because there are fewer units (544 rather than 624 which is permissible). If a density bonus was given providing for additional affordable housing, this project could consist of up to 770 units on site.

Mr. Levine explained that the current residents were notified of the pending redevelopment in 2004. Several meetings were held with the residents since that time. Financial incentives were offered to residents in 2004 and if the tenants remained until date of vacation prior to demolition, they would receive their last month’s rent free and could apply their security deposit to some portion of the balance to their second to last month’s rent. He also explained that under the rules and law of Los Angeles County, the lessee is not required to provide any relocation expenses or provide financial incentives, but the lessee in this property has done that.

Lastly, Mr. Levine stated that the replacement units are based on the income profile of the current residents. For the first time in Marina del Rey’s history an income survey was conducted to ensure that the Coastal Development Permit was consistent with the Mello Act. An independent contractor hired by the Los Angeles County Community Development Commission verified the results of the tenant income survey.

Chairman Searcy asked the process for residents who are still current tenants.

Mr. Levine answered that under the Mello Act, there is no provision for individuals to assume they can return to the same project, as there is a three-year time period for demolition and construction. There is no requirement to set aside these replacement units for tenants who meet the income levels. He explained he currently has a list of people who have indicated an interest in being notified when the affordable units are available for occupancy. He assured them that they would be contacted by phone so that they could come and fill out an application. At present, he has approximately four or five tenants on his waiting list. Lastly, he stated he is

unable to get a certificate of occupancy on the market rate units until he has signed a covenant with the County of Los Angeles' Community Development Commission and until the affordable units are available.

Chairman Searcy asked if there was a prohibition against the existing priority for Marina del Rey residents.

Mr. Faughnan responded there is no state law requiring that current residents be given a right of first refusal. Lastly, he stated if there is no requirement, then there is no prohibition.

Chairman Searcy asked how the Commission could work with CDC to come up with a process.

Mr. Faughnan responded that there is no state law on how affordable housing units are allocated in the community. He explained it is up to the individual and lessees. Boat slip tenants potentially run into the same issue in terms of the County getting involved in directing the lessee to lease to individuals. However, those issues are being reviewed by the County in developing its new policy on affordable housing and implementation of the Mello Act. Lastly, he stated the Task Force would be presenting options to the Board of Supervisors.

Chairmen Searcy stated that it would be a good idea if the lessees met with the Community Development Commission to discuss ideas that may work.

Commissioner Lin mentioned his current work on an affordable housing project in Bakersfield and Compton. The developer has an agreement with the city on how many portions are to be allocated. With respect to average income, he asked whether the income survey was based on the entire County or just the Marina del Rey.

Mr. Faughnan replied that the income survey was based on current development to determine if there were any existing units that qualified as low or moderate-income. The income requirements are based on state law. State law sets what the median, low or moderate income is for each County in the state.

Mr. Levine commented that under the terms of the agreement, a covenant with the Community Development Commission would be executed. A fee would be paid to provide a variety of oversight services such as the leasing of affordable units to tenants who are qualified and auditing the lessee once a year.

Commissioner Landini would like to see a one-sheet procedure regarding low and moderate income placement from either the Commission Development Commission, Beaches and Harbors or Mr. Levine. Additionally, Commissioner Landini agreed with Mr. Rizzo's comment that a one-sheet summary should be available that identifies what the land is worth, what the improvements are worth, rents, percentage and the rate of return that goes to the County and developer. Lastly, he referred to Ms. Marino's comment about the approval process and said that he would like to receive a report or have discussion from Beaches and Harbors on changing the lease provision so that failure of the director to approve shall be deemed disapproval and the time period allowed would be 60 days rather than 21 days.

Mr. Levine stated that the extension pertains to the approval of the construction plans. At that point in time, the Design Control Board, Regional Planning Commission and the Department of

Building and Safety would have approved these plans.

Mr. Richard Volpert, Beaches and Harbors' legal consultant, recalled that with the lease, the initial full plans schematic are submitted and the County has time to evaluate and comment on them. The plans must meet a high standard and the County does a thorough review. The next set of plans involves design; if they are consistent with the approved plans, it's a faster procedure.

Vice-Chairman Lesser commented that the Del Rey Shores project is excellent, will benefit the County and will provide low-cost housing.

Mr. Wisniewski stated that the deal would not be submitted to the Board of Supervisors until confirmation is received from the independent appraiser that it achieves fair market value for the County.

Vice-Chairman Lesser moved and Commissioner Lin seconded a motion to recommend Board approval of the Option for Amended and Restated Lease to Facilitate Redevelopment – Del Rey Shores – 4201 to 4261 Via Marina, Marina del Rey (Parcels 100/101). The motion passed with Chairman Searcy, Vice-Chairman Lesser and Commissioner Lin voting in favor. Commissioner Landini abstained.

[At this point, Chairman Searcy left the meeting and turned the chair over to Vice-Chairman Lesser.]

6. STAFF REPORT

a. Ongoing Activities Report

- Board Actions on Items Relating to Marina del Rey

Mr. Wisniewski informed the Commission that on October 3, 2006, the Board of Supervisors had a closed meeting regarding Parcel 47 (Santa Monica Windjammers Yacht Club). Also, on October 3, 2006, the Board approved and instructed the Mayor to sign the lease option granting to IWF Beachfront Hotel a 60-year lease for Parcel IR located adjacent to Mother's Beach to be improved with a hotel, possibly a Residence Inn or equivalent.

Mr. Wisniewski reported that on September 26, 2006, the Board requested the Regional Planning Commission (RPC) to present recommendations back to the Board within 120 days on an amendment to the County's Marina del Rey Local Coastal Program (LCP) and implementing ordinances that would: 1) eliminate the precondition that the Design Control Board's (DCB) initial conceptual review of a development/redevelopment project occur before an application for land use entitlements is filed with the Department of Regional Planning; 2) permit the DCB to conduct a conceptual review during the land use entitlement process and submit recommendations to the RPC prior to the commencement of the public hearing by the RPC on the land use entitlements in a timely manner; 3) place primary responsibility for site plan approval and LCP consistency with the RPC; and, 4) clarify that the DCB's final review of Marina projects will occur after the RPC has taken action on the project's land use entitlements and will continue to be focused upon architectural elements, signage, materials, landscaping and colors. The Board also instructed the Chief Administrative Officer (CAO), in conjunction

with the Director of Regional Planning, County Counsel and in consultation with the Director of Beaches & Harbors and the various boards and commissions, to review the process and procedures currently in use for proposed projects in the Marina, from the initial Request for Proposals process to final approvals, including the roles and responsibilities of County staff, and how the approval process can be made more efficient and effective without compromising public input and report back with recommendations within 45 days.

Mr. Wisniewski clarified that if the Board and Regional Planning Commission approve the LCP amendment, the developer would then be able to submit his application to the Regional Planning Commission. However, there is a requirement that before Regional Planning's first hearing, the Design Control Board would be put on notice that it should submit its comments before the first hearing.

- **Periodic Local Coastal Program Review - Update**

Mr. Wisniewski stated that the Coastal Commission advised the Department that the LCP Periodic Review is scheduled for consideration in January 2007.

- **Status of Dredging Report**

Mr. Wisniewski stated there is a low bid of \$3 million to dredge the north entrance and the Corps has \$1.4 million. He has tentative approval from the Board of Supervisors to return to the Board to request the \$1.6 million that will be needed for the \$3 million total cost.

- **Design Control Board Minutes**

The Design Control Board minutes were not available at the time of this meeting.

VICE-CHAIRMAN LESSER OPENED THE FLOOR TO PUBLIC COMMENT

Ms. Marino stated that the Design Control Board (DCB) is an independent board/commission made up of community professionals who have expertise in the development area that pertain to community planning, landscape or architectural design. Until August 2006, the County succeeded in convincing the DCB that its review was concerned with architectural elements and did not include review of projects for LCP compliance. In August, "we" presented the DCB with the specific language in the LCP ordinance that specified and delineated that the authority and responsibility was theirs. The DCB appeared to take its obligation seriously to review these projects and then the County moved to strip the DCB of its authority by placing a motion on the Board of Supervisors agenda. Ms. Marino revealed that she informed the DCB that the issue was on the Board of Supervisors' agenda; no one from the County advised the DCB that the Board would consider such an action.

Ms. Marino stated that, as a member of the public, and as many of her friends who could not attend the meeting would attest, they vehemently object to the authority being removed from an independent public based council (DCB) and instead being given to the RPC, which is part of the County and biased in favor of the development projects. She and other members of the public do not believe an independent review of the projects will be given. The DCB has implemented an evening meeting, which receives a high volume of attendance. Ms. Marino asked that the Design Control Board and Small Craft Harbor Commission urge the Board of

Supervisors to have a public review of the comprehensive redevelopment plan, with public workshops, etc. The Asset Management Strategy doesn't conform to the public mandate for Marina del Rey as a small craft harbor and public recreation. Most of the people objecting piece meal to each of the development projects would like to see redevelopment in the area; however, they disagree with the way it is being done and believe that the County is looking only at the financial portion. There are other areas of importance such as public recreation and the County's lack of public space in the unincorporated areas. She would like all of Los Angeles County to have an opportunity to have a say as to whether they want the public recreation resource auctioned to private developers on every parcel of land. Lastly, Ms. Marino commented on Mr. Levine's statement regarding 6%. She said that the LCP sets the maximum standards for any given parcel but it does not suggest that this maximum applies to every parcel; it specifically states that development maximums shall be considered in the overall consideration of development. She is waiting for that overall consideration, which she doesn't believe has been given to the public at this point.

Vice-Chairman Lesser commented that the County is not only interested in maximizing revenue and there will be a major public process in deciding what to do.

Commissioner Landini asked Mr. Wisniewski for clarification on the part of the Board motion (regarding the DCB) that pertains to permitting the DCB to conduct a conceptual review during the land use entitlement process.

Mr. Wisniewski responded that despite the speaker's comments, the motion was not brought by the Department of Beaches and Harbors. The matter will be flushed out in an LCP amendment that will be developed by Regional Planning.

As for Ms. Marino's comment about the independence of the DCB versus that of the RPC, Mr. Wisniewski explained that the Board of Supervisors appoints members to both the DCB and RPC. The motion came about because there was a problem with a duplication of process. The Board of Supervisors respects the DCB and still wants its input, but doesn't want projects to be slowed down waiting for DCB conceptual approval before starting the Regional Planning process.

Ms. Daroca commented she was pleased to read in the Ongoing Activities Report that the County takes bids on dredging, but she isn't pleased there is no bidding process for development. She would like the bidding to be open and for there to be transparent governing in Marina del Rey. Otherwise, this leaves the County and Supervisor Knabe open to questions from citizens as to how these deals are happening.

Further, Ms. Daroca stated that the community has expressed its desire to be heard and have a say in the community. She recommended that the California Coastal Commission's (CCC) LCP hearing be held in Marina del Rey.

Vice-Chairman Lesser asked Mr. Wisniewski whether the Department has control of where the CCC meetings are held.

Mr. Wisniewski replied that the County does not have control of CCC meeting locations.

Vice-Chairman Lesser requested Mr. Wisniewski to find out whether the CCC could hold its LCP

review in the Marina.

Mr. Wisniewski agreed to ask CCC staff about this possibility.

Ms. Daroca asked how the citizens of Marina del Rey participate in government, become Commission members or Design Control Board members, and have representation other than three minutes of speaking at meetings. Lastly, Ms. Daroca stated that priority should be given to those who live in the Marina.

Vice-Chairman Lesser commented that anyone could apply to a Commission by contacting the Board of Supervisors. The Board of Supervisors appoints the Commissioners and the term of office depends on the particular Commission.

Commissioner Landini stated that he lives in the community and was appointed to the Small Craft Harbor Commission after sending a letter to Supervisor Yaroslovsky.

Ms. Daroca commented that America was started on the belief that there should not be taxation without representation. She would like Supervisor Knabe to take this fact into consideration. She and other community members would like more of a voice in the community.

Commissioner Lesser commented that this Commission represents a community of over 13 million citizens in Los Angeles County who “own” this Marina. It is not just owned by the 6,000 plus citizens who live here. Fair market value returns to the County should be respected as well as the rights of the 13 million citizens who own this Marina.

Ms. Andrus commented on the workshops held in the past. She stated that the last workshop was a failure because after a long meeting six booths were arranged in different parts of the room with no comprehensive understanding of what was going on and the discussions weren't included in the minutes. Ms. Andrus feels the workshops should be separate from the regular meetings and there should be attention paid to each issue.

Mr. Wisniewski announced that the Department's consultant, RRM Design Group, is in the process of developing a master plan for the extension of Chace Park. The first public input meeting will be on November 15, 2006, from 6:30 pm – 9:30 pm in the Chace Park Community Room. The community's input would be appreciated.

7. COMMUNICATION FROM THE PUBLIC

Ms. Marino commented that she agrees the Board represents 13 million people in the County of Los Angeles. All L.A. County residents should be involved and the County should not give only a minimum legal notice project by project, but instead do a public outreach campaign for the entire County of Los Angeles regarding the cumulative master plan for redevelopment. No one wants the Marina to be paved over with buildings and on long-term leases to private developers. This is a coastal resource. There are limitations on coastal development that apply to private property and should also apply to public property that has been acquired for the purpose of small craft harbors and public recreation. She would like the Small Craft Harbor Commissioners to please entreat the Board of Supervisors, Regional Planning and Design Control Board to lobby for a public review of the Marina del Rey master plan. She also stated that it is nice to have a meeting regarding Burton Chace Park, but she isn't sure removing a yacht club is a

reasonable trade when it will be replaced in other areas with more buildings and minimum open space.

Mr. Eugene Haberman commented he lives in the city and has a problem understanding whether projects in the Marina are being coordinated with projects in the city of Los Angeles. He stated that the community is more than just the County and people are impacted by what happens throughout the County and city of Los Angeles. The growth of residential construction in the Marina impacts both the County and city of Los Angeles. He asked what coordination is done between the City of Los Angeles and the County.

Mr. Wisniewski responded that one example of a coordinated effort is the Lincoln Corridor Task Force. Additionally, traffic-related improvements for the Marina area are listed in traffic reports, which Mr. Barry Kurtz provides.

8. ADJOURNMENT

Vice-Chairman Lesser adjourned the meeting at 11:35 a.m.

Respectfully submitted,

Donna Samuels
Commission Secretary

Marina del Rey Redevelopment Projects
Descriptions and Status of Regulatory/Proprietary Approvals
As of November 8, 2006

Map Key	Parcel No. -- Project Name/Lessee	Lessee Name/ Representative	Redevelopment Proposed	Massing and Parking	Status	Regulatory Matters
1	42/43 - Marina del Rey Hotel/ Pacifica Hotels	Dale Marquis/ Mike Barnard	* Complete renovation	No changes	Proprietary -- term sheet under negotiation Regulatory -- to be determined	
2	52/GG -- Boat Central/ Pacific Marina Development	Jeff Pence	* 345-vessel dry stack storage facility * 30-vessel mast up storage space * Sheriff boatwright facility	Massing -- 75' high boat storage building partially over water and parking with view corridor Parking -- all parking required of the project to be located on site, public parking to be replaced on Parcel 56	Proprietary -- term sheet approved by BOS on July 2006; lease documents in process Regulatory -- On DCB November 2006 agenda	LCP amendment to allow proposed use and to transfer Public Facility use to Parcel 19
3	55/56/W -- Fishermans Village/ Gold Coast	Michael Pashaie/ David Taban	* 132-room hotel * 65,700 square foot restaurant/retail space * 30-slip new marina * 28-foot wide waterfront promenade	Massing -- Nine mixed use hotel/visitor-serving commercial/retail structures (eight are 1 or 2-story and one 60' tall hotel over ground floor retail/ restaurant), parking structure with view corridor Parking -- all parking required of the project to be located on site; must include parking for adjacent Parcel 61 lessee (Shanghai Reds) and replacement parking from Parcel 52	Proprietary -- lease documents approved by BOS December 2005 Regulatory -- DCB hearing May 2006, item continued; approved in concept July 2006. Regional Planning application in preparation	Shared parking analysis
4	64 - Villa Venetia/ Lyon Capital	Frank Suryan/ Mark Kelly	* 479-unit residential complex (includes 263 apartments and 216 condominium units) * 3,000 square foot accessory retail space * 18-slip marina with water taxi slip * 28-foot wide waterfront promenade and parkette	Massing -- Three buildings, two that are 140' tall, consisting of 11-12 floors of residential and 2 above-ground parking levels, and the third that is 84' tall, consisting of 6 floors over raised podium and plaza level with expansive covered parking Parking -- all parking required of the project to be located on site	Proprietary -- term sheet under negotiation Regulatory -- DCB conceptual approval October 2006	Affordable housing
5	1 -- Marina del Rey Landing/ Harbor Real Estate	Greg Schem	* New fuel dock facility with high-speed pumps and automatic payment * 3,000 square foot dock mart and restrooms * New marina with 10 slips and transient berths * Public promenade and public view docks	Massing -- 1-story structure Parking -- all parking required of the project to be located on site	Proprietary -- lease documents approved by BOS May 2006 Regulatory -- DCB application in preparation	
6	10/FF -- Neptune Marina/ Legacy Partners	Jim Andersen	* 526 apartments * 161-slip marina + 7 end-ties * 28-foot wide waterfront promenade * Replacement of public parking both on and off site	Massing -- Four 55' tall clustered 4-story residential buildings over parking with view corridor Parking -- 103 public parking spaces to be replaced off site	Proprietary -- term sheet approved by BOS August 2004; lease documents in process Regulatory -- DCB approval in concept June 2006; Regional Planning application in preparation	LCP amendment to allow apartments on Parcel FF Parking permit to allow some replacement public parking off site Replacement of Parcel FF open space Affordable housing
7	9 -- Woodfin Suite Hotel and Vacation Ownership/ Woodfin Hotels	Mark Rousseau	* 19-story, 288-room hotel (152 hotel rooms and 136 timeshare suites) * 5-story, 332-stall parking structure * New public transient docks * 28-foot wide waterfront promenade * Wetland park	Massing -- 19-story hotel with 5-story parking structure, 225' tall, on northern half of parcel with view corridor and wetland park on southern half Parking -- all parking required of the project to be located on site	Proprietary -- revised term sheet under negotiations Regulatory -- DCB initial hearing May 2006, item continued; approved in concept June 2006	Timeshare component Wetland
8	100/101 - The Shores/ Del Rey Shores	Jerry Epstein/ David Levine	* 544-unit apartment complex * 10 new public parking spaces	Massing -- Twelve 75' tall 5-story residential buildings Parking -- all parking required of the project to be located on site plus 10 public beach parking spaces	Proprietary -- term sheet approved by BOS December 2003; lease documents in process Regulatory -- Regional Planning approval June 2006	
9	95/LLS -- Marina West Shopping Center/ Gold Coast	Michael Pashaie/ David Taban	* 72-unit apartment complex * 10,000 square foot restaurant * 22,400 square foot commercial space * Gateway parkette on Parcel LLS	Massing -- One 42' tall retail building, three 60' tall mixed-use residential/retail buildings and parkette Parking -- all parking required of the project to be located on site	Proprietary -- term sheet under negotiation Regulatory -- DCB initial hearing May 2006; item also on June and July agenda, but not heard; on again for September 2006 agenda; continued to November 2006	
10	145 - Marina International Hotel/ Pacifica Hotels	Dale Marquis/ Mike Barnard	* Complete renovation	No changes	Proprietary -- term sheet under negotiation Regulatory -- to be determined	
11	OT -- Admiralty Courts/ Goldrich & Kest Industries	Jona Goldrich/ Sherman Gardner	* 114-unit senior care facility * 3,000 square feet of retail space * Replacement public parking both on and off site * Public accessway from Washington to Admiralty	Massing -- One 5-story residential (senior) building over ground-floor retail and parking, 65' tall Parking -- all parking required of the project to be located on site; 92 public parking spaces to remain on site, 94 public parking spaces to be replaced off site near Marina Beach	Proprietary -- term sheet approved by BOS August 2005; lease documents in process Regulatory -- DCB conceptual approval August 2005; Regional Planning application filed May 2006, awaiting hearing date	LCP amendment to allow proposed use Parking permit for senior care facility Parking permit to allow some replacement public parking off site
12	33/NR -- The Waterfront	Ed Czucker	* 292 apartments * 32,400 square foot restaurant/retail space * Rooftop observation deck * Replacement public parking both on and off site	Massing -- Three 5-story mixed use residential/retail buildings (two 44' tall and one 61' tall) with view corridor Parking -- 121 public parking spaces to be replaced on site, 70 public parking spaces to be replaced off site	Proprietary -- lease documents in process and economic terms being negotiated Regulatory -- DCB concept approval August 2004; revised project pending DCB consideration	LCP amendment to allow proposed use Parking permit to allow some replacement public parking off site
13	27 -- Jamaica Bay Inn/ Pacifica Hotels	Dale Marquis/ Mike Barnard	* 69 additional hotel rooms * Renovate balance of property * Marina Beach Promenade	Massing -- 4-story, 45' tall, hotel expansion with view corridor Parking -- all parking required of the project to be located on site	Proprietary -- lease documents approved by BOS May 2006 Regulatory -- DCB conceptual approval obtained October 2005; Regional Planning application in preparation	
14	IR -- Marriott Residence Inn/ Pacifica Hotels	Dale Marquis/ Mike Barnard	* 147-room hotel * Replacement of public parking both on and off site * Marina Beach Promenade	Massing -- Two hotel buildings above parking, 45' tall, with view corridor Parking -- 197 public parking spaces to remain on site, 20 or 89 public parking spaces to be replaced off site depending on intersection project	Proprietary -- lease documents approved by BOS Oct 2006 Regulatory -- DCB approved in concept February 2006; Regional Planning application in preparation	LCP amendment to allow proposed use Parking permit to allow some replacement public parking off site
15	21 -- Holiday Harbor Courts/ Goldrich & Kest Industries	Jona Goldrich/ Sherman Gardner	<u>Phase 1</u> * 5-story, 29,300 square foot mixed-use building (health club, yacht club, retail, marine office) * 87-slip marina * 28-foot wide waterfront promenade and pedestrian plaza <u>Phase 2 (Parcel C)</u> * Westernmost portion of land to revert to County for public parking	Massing -- One 56' tall commercial building with view corridor Parking -- all parking required of the project to be located on site, including 94 replacement spaces from OT and Parcel 20 boater parking	<u>Phase 1</u> Proprietary -- lease documents in process Regulatory -- DCB conceptual approval obtained August 2005; Regional Planning application (landside) filed July 2006 <u>Phase 2 (Parcel C)</u> DCB hearing May 2006, item continued	CDP for landside from Regional Planning CDP for waterside from Coastal Commission Parcel 20 CDP amendment from Regional Planning to transfer Parcel 20 Phase 2 (6,025 sf yacht club, 2,300 sf office space, 231 parking spaces) to Parcel 21
16	19 -- Administration Building/ Department of Beaches and Harbors	N/A	* 26,000 square foot County administration building	Massing -- One 56' tall building consisting of 2 floors office space over 3 parking levels Parking -- all parking required of the project to be located on site	Proprietary -- lease documents in process with Parcel 20 lessee for parcel reversion Regulatory -- DCB hearing May 2006, item continued; scheduled for November 2006	See Item #2 above



"To enrich lives through effective and caring service"



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

November 9, 2006

TO: Design Control Board Members
FROM: Stan Wisniewski, Director *Stan Wisniewski*
SUBJECT: **AGENDA ITEM 6C - DESIGN CONTROL BOARD – 2007 MEETING SCHEDULE**

Design Control Board meetings are usually held on the 3rd Thursday of each month (at 2:00 p.m. unless otherwise noted) at the Burton Chace Park Community Building, 13650 Mindanao Way, Marina del Rey, California 90292.

In keeping with the Design Control Board's March 2006 decision to hold Thursday evening meetings on even-numbered months, the proposed DCB meeting schedule for 2007 is as follows. The night meetings have been scheduled for the 4th Thursday of every month, as the Chace Park Community Building is not available on the evening of the 3rd Thursday:

January 18, 2007 (2:00 p.m.)
February 22, 2007 (6:30 p.m.)
March 15, 2007 (2:00 p.m.)
April 26, 2007 (6:30 p.m.)
May 17, 2007 (2:00 p.m.)
June 28, 2007 (6:30 p.m.)
July 19, 2007 (2:00 p.m.)
August 23, 2007 (6:30 p.m.)
September 20, 2007 (2:00 p.m.)
October 25, 2007 (6:30 p.m.)
November 15, 2007 (2:00 p.m.)
December 27, 2007 (6:30 p.m.) * Date may change due to the holidays *

SW:MF:cs

**MINUTES
OF
MARINA DEL REY
DESIGN CONTROL BOARD**

Thursday, August 31, 2006

**Burton W. Chace Park Community Building
13650 Mindanao Way
Marina del Rey, CA 90292**

Members Present: Susan Cloke, Chair – First District
Katherine Spitz, ASLA, Vice-Chair – Third District
Peter Phinney, A.I.A. – Fourth District
Tony Wong, P.E. – Fifth District

Members Absent: David Abelar, Second District [Excused]

Department Staff Present: Kerry Silverstrom, Chief Deputy Director
Michael Fischer, Chief, Planning Division
Chris Sellers, Regional Planning Assistant

County Staff Present: Tom Faughnan, Principal Deputy County Counsel
Russell Fricano, Ph.D., Department of Regional Planning

Guests Testifying: Lisa Fimiani, L.A. Audubon and Friends of Ballona Wetlands
Marcus Hopper, F&M Architects
Dorothy Franklin, Marina del Rey Resident
Nancy Vernon Marino, Marina del Rey Resident
Carla Andrus, Marina del Rey Resident
Mark Kelly, Lyon Capital Ventures
Peter Wolf, Wolf Co.
Greg Clement, Patterson/Fox Architects
Frank Angel, Legal Counsel, Coalition to Save the Marina
Joy Roederer, Villa Venetia Resident
Peter Mitchell, Villa Venetia Resident
Pamela Masten, Villa Venetia Resident
Dr. Mansour Rahimi, Villa Venetia Resident
April Star, Marina del Rey Resident
Dr. David DeLange, Coalition to Save the Marina
Helen Garrett, Marina del Rey Resident
Arthur Roberts, Marina del Rey Resident
Steve Edward, Marina del Rey Resident
Steve Freedman, Marina del Rey Resident
Wendy Mautch, UCLA
Marcia Hanscom, Sierra Club
John Hodder, California Wetlands Research
Robert Van de Hoek, Biologist
Richard I. Fine, Richard I. Fine Associates
Dr. Jeffrey Froke – did not sign guest list

1. **Call to Order, Action on Absences, and Pledge of Allegiance**

Ms. Cloke called the Special Meeting to order at 6:42 p.m. Mr. Phinney led the Pledge of Allegiance.

Ms. Cloke (Wong) moved to excuse Commissioner Abelar. [Unanimous consent.]

2. **New Business**

A. **Parcel 64 – Villa Venetia - DCB #06-015**

Consideration of redevelopment project.

Mr. Fischer gave a brief overview of the proposal.

Mr. Kelly stated that the project was a one-of-a-kind piece of property that warranted an iconic level of architecture, and that it is 100% compliant with the certified Local Coastal Plan.

Mr. Clement gave a brief overview of his firm and explained the combination of the architectural scheme and the landscape into the environment of the project. He stated that they were careful not to create walls that locked both the outside in and the inside out. He said that the large opening at the end of Fiji Way would act as a “receiving” gesture, created by the splaying of two building forms: one on the right which is 84 feet tall and one on the left which is 140 feet tall. This would serve to extend the access of Fiji Way into the property a bit.

Mr. Clement said that on the water side, the building would create an inverted form and a landscaped upper terraced garden: a “village of forms”, rather than one single building. There would also be a landscaped plaza running out to the harbor.

Mr. Clement said waterside public amenities would include the extension of the access of Fiji Way, an upgraded boardwalk, a water feature, and a café with Spanish steps, which would lead to a view of the jetty and ocean.

Board Comment:

Ms. Spitz asked for an explanation of the wind studies.

Mr. Kelly stated they don't have the experts on the wind studies, but clarified that only in a Santa Ana condition would there be any negative wind impacts.

Mr. Phinney asked what the Spanish steps would lead to and from, and about the raising of one of the buildings in terms of the ground plane and the ceiling.

Mr. Kelly explained the idea of making the steps a welcoming place of public gathering, saying that the idea would be to have a place for people to sit at various levels and socialize and enjoy the view and café. Raising the building along the water's edge would be to express it as a sculptural form. The ground plane of that would be stone or paved with the feel of an urban piazza.

Ms. Cloke asked about the location of columns at the end of Fiji Way and their spacing and scale.

Mr. Kelly stated they would be round columns and efficiently spaced 30 feet apart. The height of the underside of the soffit would be nearly 40 feet.

Ms. Cloke asked the applicant to expound upon the statement in his cover letter that a yacht was the inspiration for the design of the building.

Mr. Wolf explained the streamlined design was inspired by the notion of a finely crafted yacht, which led to the detailing of the wood and the forms.

Ms. Cloke asked for the height difference between the piazza level and water level.

Mr. Kelly said it would be about 17 feet.

Ms. Cloke asked at what level the retail shops would be.

Mr. Kelly said the retail esplanade would be at grade.

Ms. Cloke asked for the height difference between the café and water level.

Mr. Kelly said the café would be about eight feet above the esplanade.

Ms. Cloke asked how many risers or feet a person would have to cover when traversing the entire length of the steps.

Mr. Kelly said the 16 to 18 steps would go up about eight feet in height.

Ms. Cloke asked about the rooftop amenities listed in legend #11.

Mr. Kelly explained it's an architectural element; it's the roofscape along the waters edge and it will have a distinctive roof canopy piece.

Ms. Cloke asked what the height is.

Mr. Kelly said it would be 15-16 feet.

- RECESS -

Public Comment:

Dr. Rahimi showed and spoke about a video of Great Blue Herons in Villa Venetia, saying that fan palm trees were not mentioned in Dr. Froke's May 2006 report.

Ms. Cloke asked Dr. Rahimi what kind of professor he was.

Dr. Rahimi responded he was a professor of engineering, but mostly did research on the environmental impacts of large developments and industrial facilities.

Mr. Angel voiced concerns about the 140-foot height. He said he would have liked the presentation to have been focused more on the Board's document, which governs their

consistency review. He was concerned with the height limit standard, stating that the whole design was a non-starter. He believed the Board should screen check the Environmental Impact Report (EIR) because California Environmental Quality Act (CEQA) guidelines require it. He also believed the review was premature and should be designed within the parameters of the plan, with a range of alternatives.

Ms. Star voiced concerns about traffic conditions and parking.

Dr. DeLange believed that the proposed uprooting of the heron nest trees would be an ecological tragedy and that the nesting would be affected by a major redevelopment in Villa Venetia. He pointed out what he said were errors and inaccuracies in Dr. Froke's report on the awareness of heron nesting in Villa Venetia. He felt that an alternative, more user and environmentally friendly proposal for improving Villa Venetia might gather widespread support throughout the entitlement process.

Dr. DeLange also said the project was out of compliance with the 45-foot height limit imposed on mole roads.

Ms. Garrett stated they don't want this building. They don't want gentrification, which would involve expensive housing. She feels no more housing should be built until the review of the County's policy on low-income housing is finalized.

Mr. Mitchell presented and described recent photos he took of herons nesting near his residence. He voiced concerns about the nature of a recent letter from the director of the Department, regarding Villa Venetia and the report to the board to move the project forward.

Ms. Cloke asked Mr. Mitchell where his photos of palm trees were taken.

Mr. Mitchell said there are nests with babies in the palm trees near Ballona Creek.

Ms. Mautch voiced concerns about the safety of the bike path and the parking situation and how these issues would be corrected if the project were to move forward.

Ms. Marino said she would like to see the birds in her community preserved. She felt the removal of the trees in order to transplant them was ludicrous. She said the trees were part of the image of the Marina, and the new development would go higher than the trees and higher than the mass. She requested workshops and public input into the cumulative process.

Ms. Hanscom stated that, as a matter of law, the heron rookery cannot be moved because of the Bolsa Chica decision, in which the courts ruled that an Environmentally Sensitive Habitat Area (ESHA) could not be moved for the sake of development. She felt that this area would be treated as an ESHA when the Commission staff report on the project comes out.

Ms. Masten read a letter describing the negative impact on traffic and parking due to the proposed development, and what it would do to the cost of living for the current Villa Venetia residents.

Mr. Freedman voiced concerns about the impact of the growth of the Marina due to new development. He stated the current scenic views of the marina from the parking lot will be gone

due to the new buildings. He felt taller buildings in the Marina would negatively impact sailing. He asked the Board members to use thoughtful oversight in their review of proposals in the Marina, and do their best to protect the coastal resources for the benefit of everyone.

Mr. Hodder read a letter addressed to Dr. Froke in order to assist Dr. Froke in revising and updating his recent heronry report. Mr. Hodder felt there was a contrast between the data collected by local naturalists and scientists over the past 10 years, and contentions that are emerging from developer-funded studies.

Mr. Van de Hoek said he'd studied the Great Blue Herons for 10 years and he'd focused his study on the Villa Venetia apartments for the last six. He described Great Blue Heron history in California, and said several issues needed to be corrected in the Froke report.

Mr. Van de Hoek went on to explain that the nesting of Great Blue Herons begins earlier and extends longer than reported, meaning that there can be situations of year-round nesting. He felt there wasn't going to be a way to do the construction without disturbing the nesting of the herons.

Dr. Roederer told the Board that Villa Venetia provided affordable housing, and if the development went through she might not be able to find another place like it. She said she appreciated the architect's photos and how they demonstrated the disrepair along the Marina. She said that with proper landscaping and repair, the property would be a very welcomed area to the Marina.

Ms. Franklin felt the proposed project would be more appropriate for downtown Chicago, New York or Los Angeles. She requested that the mandate for a small craft harbor and public recreation be honored.

Mr. Roberts asked the Board members if any of them lived in the Marina and if they understood the effect of a high-rise building in their community.

Ms. Cloke said that each Board member is appointed by one of the five County Supervisors, and that it's not a requirement to be a Marina resident.

Mr. Edward commented that he moved to Villa Venetia because it was affordable housing and he would be homeless if the developers tore it down and made it more expensive. He felt high-rise buildings could destroy the community. He referred to a letter he received from a commission in Los Angeles asking his income. He felt that because of the timing of the letter and this meeting, the project had already been considered a slam-dunk. He complained that if there was to be a hearing in order to make a decision, the decision should be made with open minds.

Mr. Fine stated that under the public resources code, an EIR should be considered by every public agency prior to its approval or disapproval. He felt that any project should have to go through the CEQA and EIR process before being reviewed. He felt that this exercise was something that should be done after the EIR had been considered.

- RECESS -

Dr. Froke said there was a disconnect when people talked about the heronry report. He said the observation made this year by residents and neighbors wasn't observed, wasn't mentioned, wasn't acknowledged, and was ignored in the report. He explained that the key points in his report were base solely on work that he did between July and September of 2005.

Dr. Froke stated the work he did at Villa Venetia was more restricted: he didn't start work until July and he continued through the last fledging of the last birds, which took place on August 22, 2005. He said the report covers no other period of time and no other information. He said that the report would be rewritten in September, based on work that's ensued since then, because the County and Lyon Capital Ventures have approved continuation of his studies.

Board Comment:

Mr. Wong explained that the Board was not able to make some decisions because they were only in charge of the architectural review. He felt that over 90% of the material had to do with environmental issues.

Ms. Cloke said she expected a full response at the next meeting from Mr. Fricano.

Mr. Fricano said he would be able to respond to all legal and planning issues raised by the Board.

Mr. Phinney asked Ms. Silverstrom if at the next meeting the following could be done:

- Provide the Board and public with a brief overview of how projects flow through the entitlement process;
- Describe how projects are initiated and with what group;
- Describe how term sheets are written;
- Discuss when an EIR should be performed;
- Discuss what authority the Board has with respect to preliminary, conditional and final approval;
- Describe how Regional Planning interfaces at both junctures; and
- Talk about the timeline.

Mr. Phinney asked County Counsel to respond to the ESHA comment about the Coastal Commission treating portions of the site as an ESHA, saying he believed the Staff Report indicated there was no ESHA. He also requested information on how a portion of the site could be designated an ESHA. He further requested:

- A brief overview of the EIR process;
- A list of the agencies that control that process and what CEQA requires;
- What constitutes an effective EIR; and
- What kind of review is involved.

Regarding the issue of Fiji Way, Mr. Phinney addressed the following to County Counsel:

- Provide information on whether or not Fiji Way is a mole road;
- Provide information on height restrictions; and

- Explain the exceptions to height restrictions (including “chapter and verse” of the LCP).

Mr. Phinney said he liked what the applicant had created as a “village”, and asked if the public promenade was part of the circulation for fire access.

Mr. Phinney said he was not convinced that the café was enough of a “draw” to pull people up, and suggested the applicant think about pulling some of the retail apart or putting it above. He thought the use of the term “diaphanous” was great and would like to see the applicant explore it further, and he applauded the selected materials. He then requested the applicant bring back more detail about the teak at the residential balconies, and a sketch of the proposed treatment of the underside of the raised portion of the building.

Mr. Phinney asked Staff for the following:

- A briefing on the affordable housing issue;
- A definition of exactly what affordable housing means;
- Any requirements for a certain number of units in this property;
- The current rents for the property; and
- Anticipated future rents for the property.

Ms. Spitz’s primary concerns were:

- What is within the Board’s charge as the DCB;
- Mr. Wisniewski’s letter about the Ballona heronry relocation;
- She’s not sure if the County is taking its charge to preserve parts of the environment as seriously as they should be; and
- The proper siting and height of the project.

Ms. Spitz stated concerns about the use of the building as a gateway to the Marina, saying that she was not sure that was what the Marina really wanted to portray.

She also said she had grave concerns about the landscaping. She said landscaping could be defined as either pattern making or as environmental sensitivity, and cautioned the applicant to not create something that was just a matter of rote. She suggested the applicant explore the opportunity to do something different, and make a much bigger statement than just chopstick lines on a page.

Ms. Cloke asked the applicant to do the following:

- Provide a massing model that goes from the main channel to Ballona Creek;
- Explain plans for the bike path roadway to get into UCLA;
- Provide a better description of the grade relationships;
- Provide new water-level view elevations: one from the perspective of coming into the channel from the ocean and one from the gateway under proposal;
- Provide an elevation from either Ballona Creek or from back in the Ballona wetlands looking towards the project (a longer distance perspective);
- Provide a direct elevation from the main channel;
- Provide some studies on and concept of diaphysis;

- Provide some studies of how they would handle the different proposed materials;
- Look at some sun and shade issues over the steps; and
- Address the sustainability questions that Ms. Spitz raised in terms of landscaping/water.

Ms. Cloke asked if there was enough parking on site and how the applicant would bring people into the project. She wanted to know how a boater at UCLA would get into the café or to Fisherman's Village.

Ms. Cloke agreed with Mr. Phinney's comments about looking at ways to disaggregate the buildings more. She wanted to see know how bicyclists would use the bike path and how the applicant would pull them into the project.

Ms. Cloke asked Mr. Fischer and Ms. Silverstrom how the County would respond if the project changed or if it was determined that the heronry needed to stay where it was. She asked if the term sheet would change or be renegotiated.

Ms. Cloke voiced concern that if all these new changes were imposed on the project, that the developer couldn't be in the same financial relationship with the County. She said she would like to learn more about the herons, but that it was difficult when there were so many opinions. She said she wanted to do the right thing environmentally, but didn't know what that right thing was because of all the conflicting comments, stating that this was only the second time the Board had dealt with such huge environmental issues.

Ms. Cloke moved to continue DCB #06-015 to the October 26, 2006 meeting. [Unanimous consent].

9. Adjournment

The meeting was adjourned at 10:05pm.

Respectfully submitted,

Michelle Concepcion
Weinstein Court Reporters

**MINUTES
OF
MARINA DEL REY
DESIGN CONTROL BOARD**

October 26, 2006

**Department of Beaches and Harbors
Burton Chace County Park
Community Building – 13650 Mindanao Way
Marina del Rey, CA 90292**

Members Present: Katherine Spitz, ASLA, Vice-Chair, Third District
David Abelar, Second District
Peter Phinney, A.I.A., Fourth District
Tony Wong, P.E., Fifth District

Members Absent: Susan Cloke, Chair, First District, [Excused]

Department Staff Present: Stan Wisniewski, Director
Michael Fischer, Chief, Planning Division
Chris Sellers, IT Technical Support Analyst
Maureen Sterling, Acting Secretary

County Staff Present: Tom Faughnan, Principal Deputy County Counsel
Russ Fricano, Regional Planning Department

Guests Testifying: Mark Kelly, Lyon Capital Ventures
Gregory Clement, Principal Architect, Kohn Pedersen Fox
Andi Culbertson, Culbertson Adams and Associates
Dr. David De Lange, Executive Director, Coalition to Save the Marina
Richard Horner, Marina del Rey Resident
Frank Angel, Attorney for Villa Venetia Residents
Dorothy Franklin, Marina del Rey Resident
John Hodder, Cal West
Dave Nichold, Boat Owner
Nancy Marino, Marina del Rey Resident
Marcia Hanson/Sierra Club/Clean/Ballona Institute
Robert Roy Van de Hock/Sierra Club
Frank Angel, Marina del Rey Resident
Roslyn Walker, Marina del Rey Resident
Suzanne Frieder, Marina del Rey Resident
Steve Seinman, Dock 77

Robert Roy van de Hoek, Ballona Institute
Marcia Hanscom, Sierra Club, Ballona Institute
Cindy Turney, Marina del Rey Resident
Lorin Roche, Marina del Rey Resident
Mansour Rahimi, Villa Venetia Resident
Sheara Rahimi, Villa Venetia Resident
Richard Miller, Coalition to Save the Marina
Debbie Fox, Coalition to Save the Marina
Ian Edmiston, Villa Venetia Resident
Sam Collin, Villa Venetia Resident
Suzanne Feit, Villa Venetia Resident
Pam Masten, Villa Venetia Resident
W.A. Macpherson, Marina del Rey Resident
Linda Mitchell, Villa Venetia Resident

1. Call to Order, Action on Absences and Pledge of Allegiance

Ms. Spitz called the meeting to order at 6:38 p.m. She advised the public that anyone wishing to speak during the public comment period for Villa Venetia Apartments should please sign up within the next five minutes. Mr. Phinney led the Pledge of Allegiance. Ms. Spitz (Wong) moved to excuse Ms. Cloke from the meeting. Ms. Spitz (Wong) moved to move Agenda Items 2 and 3 to the end of the meeting and start the meeting with Item 4.

2. Old Business

A. Parcel 64 – Villa Venetia – DCB #06-018

Further consideration of redevelopment project

Mr. Wisniewski gave a brief overview of the project.

Mr. Wisniewski introduced Ms. Culbertson as the Department's Coastal Commission consultant, and said he would like her to address a letter from the State of California Department of Fish and Game regarding the heronry issue.

Ms. Spitz requested that the County's response to the Board's request for information be read into the record. The report was read by Mr. Wisniewski and Mr. Faughnan and is included at the end of this document as Exhibit A. Ms. Culbertson read the response to Question #7 and Mr. Fricano read the response to Questions #9 and #10.

Pursuant to the report, Mr. Phinney asked which County agency runs the Environmental Impact Report (EIR) process.

Mr. Faughnan responded that The Department of Regional Planning is the primary regulatory agency charged with determining compliance with planning and zoning

codes with respect with the coastal zone in Marina del Rey and the Local Coastal Program. It happens that the County also is the owner of this property and its propriety capacity is the Lessor to the Lessee. The County is involved in both aspects. However, the Regional Planning Department enters into a three party agreement with the developer and the consultant who prepares the EIR. The Department of Regional Planning has full control over the environment analysis and the environmental process.

Mr. Ablear asked if Regional Planning interprets and translates to other Departments?

Mr. Faughnan responded that the Regional Planning Commission is the regulatory agency that interprets and applies the planning and zoning codes which, in this case, in Marina del Rey, include the Specific Plan, which is applicable and implements the local land use plan, with the assistance and legal advice of County Counsel.

Ms. Spitz asked if the terms on a Term Sheet could be renegotiated.

Mr. Wisniewski responded “absolutely.”

Staff Report

Mr. Fischer gave a brief overview of the applicant’s new submittal, stating that it addressed in more detail the issues of public space, fire access, building massing, architectural softening and parking.

Ms Spitz expressed surprise that there was no complete Staff Report from the Department.

Mr. Phinney suggested the applicant present their proposal and if there were any further questions, the Board could refer to staff.

Mr. Wisniewski asked the Board if Ms. Culbertson could read a letter from the State of California Department of Fish of Game prior to the applicant speaking.

Ms. Spitz replied yes.

Ms. Culbertston explained the background and reason for the letter. She then read the letter in its entirety. The letter is included at the end of this document as Exhibit B.

Mr. Wisniewski commented to the Board that Ms. Cloke’s comments on Agenda Item #4 – Villa Venetia were available to the public at the table in the back of the room.

Mr. Kelly introduced Gregory Clement, the principal architect of the project. Mr. Kelly said the project as proposed today is 100% compliant with all aspects of the certified Local Coastal Plan and that it would activate what is now an under-utilized

area of the Marina, currently only enjoyed by a small group of individuals and their guests.

Mr. Clement gave an overview of the new Villa Venetia building, explaining the massing and view corridors. He said views have been softened and more light has been added to the overall project. He gave an overview for a promenade that would be accessible to the public, including improvements to the existing bike path along the south edge of the property.

Mr. Clement expressed that the landscape component of the project was absolutely essential to the basic premise of the design. He stated that more than 30% of the site was open and almost all of that was landscaped in some way. He felt the greening of the site was an essential characteristic of the success of the project as it successfully grasps what is a very natural environment. He said the landscaping was very important to them and it was still in its concept stage.

Board Comments

Mr. Phinney said the Board was troubled with the heron nesting at the site and they were asking for assistance. He said the Department of Fish and Game letter leaves a very large window. He noted a sentence from the letter, explaining the Dept of Fish and Game may be saying that there may be the potential of developing their area into an environmental reserve adjacent to this property. The installation of the tidal flow pipe that they mention might involve the destruction or relocation of a half a dozen to two dozen nests or nesting pairs, in favor of creating many acres of viable habitat located immediately next to the property. Mr. Phinney stated that he was quite torn.

Ms. Spitz asked the applicant if they had seen the letter from the Dept. of Fish and Game and if they were prepared to make whatever changes they needed to accommodate what was in it.

Mr. Kelly replied yes they were.

Ms. Spitz asked if they had any idea at this point where those changes may occur.

Mr. Kelly stated they would need to do further studies.

Ms. Spitz stated it could possibly result in the removal of parking spaces and asked the applicant if they were prepared to do that.

Mr. Kelly said they understood there may be the need for modifications.

Ms. Spitz mentioned that her landscaping comments had been omitted from the August 31, 2006 minutes, and that the current landscape design was a generic resort with no native trees.

Mr. Kelly and Mr. Clement agreed that they had not spent enough time on the landscaping. Mr. Kelly agreed to adjust the parking.

Ms. Spitz had a question in the massing of the buildings. Her concern was in regards to the plinths between the two buildings.

Mr. Clement explained the connection was still conceptual.

Ms. Spitz asked where the Spanish steps lead to and from and if there were any options to reduce the height of the building.

Mr. Phinney suggested possibly reducing the building height at the “knife edge” area closest to the ocean, maybe by a floor or two or three, or taking those units and moving them elsewhere on the complex.

Mr. Wong asked if the public would have free parking to access the public area.

Mr. Kelly stated there would be no public parking for the public area, however they envision a stronger connection over to Fisherman’s Village, with people strolling down the promenade to Villa Venetia and the UCLA Rowing Center.

Ms. Spitz suggested having five or six parking spaces for the public to use for the retail area.

Mr. Kelly replied that might then not be considered resident-serving use.

Mr. Wong stated if someone was driving down Fiji Way but could not park, then that would defeat the purpose of view corridor public access.

Mr. Wisniewski stated that the Marina parking lots are under utilized. He said the Department is encouraging people to get out of their cars and walk and use the promenades.

Ms. Spitz replied that maybe shared parking was appropriate in some projects to some degree.

Mr. Phinney stated that exploring the connection between Fisherman’s Village and Villa Venetia was necessary and that the Design Guidelines would give direction in unifying the public promenade.

Mr. Abelar asked if any facilities were being provided for bicycle parking.

Mr. Kelly replied that they hadn’t gotten to that level of detail yet, but they would be happy to take that into consideration.

Mr. Abelar inquired about public restrooms.

Mr. Kelly replied there would be restrooms to service the Marina, and that they could explore the need for restrooms with the retail.

Mr. Wisniewski stated that when it comes to areas around the promenade, the dual use of restrooms (by boaters and the public) is not a good idea; there needs to be separate restrooms for the general public. The Department will work with the applicant to make sure that happens.

Mr. Abelar asked about water fountains and rest stops for travelers with children.

Mr. Kelly thought some of the items were in the guidelines. He felt they could fit in a drinking fountain with the restroom areas.

Ms. Spitz asked where the closest County parking was located on Fiji Way.

Mr. Wisniewski stated Fisherman's Village.

Ms. Spitz and Mr. Phinney encouraged Mr. Wisniewski to speak to the Dept of Fish and Game regarding Area A parking options.

Public Comment

Dr. De Lange asked Lyon Management to set forth a cooperative with existing community and tenant advocates like the Coalition to save the Marina.

Dr. Rahimi gave a presentation to show the views of current and future buildings as the boats enter the Marina del Rey channel.

Dr. De Lange read a letter into the record. The letter is included at the end of this document as Exhibit C. The following members of the public also read from Dr. De Lange's letter: Ms. Rahimi, Ms. Fox, Mr. Edmiston, Mr. Collin and Ms. Feit.

Mr. Phinney mentioned to the members of the public that the Board and Staff were aware of the letter written by Dr. De Lange, and that it was being read to the public on the public's time for public benefit.

Mr. Miller said that the proposed Villa Venetia will cause significant and substantial view disturbance, and asked the Board to consider scaling down the height.

Ms. Masten stated she had safety concerns about increased boating accidents with the addition of thirty to forty boat slips. She also had concerns regarding a jail being located close to the promenade and about too much traffic on Fiji Way. She also had soil concerns regarding the new project site.

Mr. Macpherson read from a letter regarding the Blue Heron nesting in local areas.

Ms. Mitchell stated she was upset that only the wealthy and their guests would be able to enjoy Villa Venetia. She explained the Blue Heron nesting seasons and showed pictures of the herons.

Ms. Marino complained that numerous threatening notices had been posted with tenants on the site, and believed the situation behavior violated Provision 11 in the standard lease. She asked for it to cease.

Mr. Phinney asked Ms. Marino to give the Board copies of those notices through staff.

Ms. Marino said she would submit the notices as soon as possible.

Mr. Angel stated he has won Mello Act cases against the County before. He mentioned that he has heard nothing about any relocation assistance. As for the height issue, he called the project "dead on arrival."

Ms. Walker stated the building is beautiful but it is not for the Marina. She said it was not just for what the birds needed, but also for what she and other people needed. She said she walks down Fiji Way several times a week and needs the wildlife she sees. She said her walk makes her healthier physically, mentally, and spiritually. She was concerned that her experience would soon be ruined.

Mr. Weinman stated that if Mr. Angel had enough time he might have said that the Coastal Commission had declared ESHA's in places where there wasn't a Local Coastal Plan. He told the Board they had been misinformed by County Counsel on this.

Ms. Frieder stated the building was beautiful, but it would block clean air from the ocean and limit public recreation.

Mr. Van de Hoek asked the Board how to decide which biological scientist to rely on. He disagreed with relocating the trees, saying it hadn't worked in other locations. He said a tidal flow pipeline would not work, and that the herons were rare and on the Audubon list used by the Federal Government.

Ms. Hanscom stated the Blue Heron is a political pawn. She said the Coastal Commission allowed no trimming of any trees in the Marina where herons or egrets were using them for nesting or roosting. She read the definition of ESHA from Page 15 of the Marina del Rey Land Use Plan.

Mr. Mitchell said the project looked like a monstrosity and a glorified shoebox. He said the promenade was really for the residents of the new project, not the public,

since government buildings separate Fisherman's Village and Villa Venetia. It's beauty only for the people who can afford to live there.

Ms. Franklin continued Mr. Robert Van de Hoek's statement regarding the herons and the palm trees located at the Department of Beaches and Harbors and Shanghai Red's Restaurant.

Mr. Edwards stated that thousands of people pass by his house. He said that other members of the public, if they own a home, have a private lawn, and they would not like it if members of the public were sitting on their lawn. He said that if you want the public in the Marina, give them a place to sit and look at the water. The project should be more accessible to the public, but not have them coming onto private property.

Mr. Hodder said the letter from the Director of Fish and Game seems to be from a politician, and that the Area A wetland was not the only habitat for the Great Blue Heron. The Great Blue Heron does not eat endangered and threatened species in the Ballona Wetlands; they eat frogs, lizards and fish.

Mr. Horner asked the Board to please not let the birds' basic needs be set aside in a quest to maximize real estate revenues.

Board Comments

Ms. Spitz said there was a great perception of bias in the heronry report, and it was her feeling the County made a bad choice in the expert they chose. She said the report raised a lot of issues for me and made her very uncomfortable. She felt that it would be very hard to relocate a mature Monterey cypress, and would be even harder to relocate one that has its footing and roots in rocky, sandy soil. She questioned the legitimacy of what Board had before them.

Mr. Wong stated this meeting was 90% environmental and that he was not a heron expert. He said was just in an advisory position and that the project should move up the chain to an appropriate environmental expert.

Mr. Abelar felt there was no honest input

Mr. Wisniewski interjected, saying that the heronry issue would be addressed at the environmental impact process, and that it was not really within the purview of the Board.

Mr. Faughnan confirmed Mr. Wisniewski's statement, saying that the role of the Board was not to review environmental matters. The Department of Regional Planning handles the CEQA process.

Ms. Spitz asked if there was any tree trimming being done.

Mr. Wisniewski said there was not.

Mr. Phinney said to the public that the most compelling story heard this evening was from the woman who takes her weekly restorative walks. He said he would like to hear more of that type of commenting from the public. He said it disappoints him to see Biology potentially being used to further a different agenda. He felt the public presentation of perspective views of the project was misleading. He told the public the Marina was going to continue to develop, and that they should try to control and maximize all the benefits out of the Board review process.

Mr. Phinney stated to the architect and the developer that the Board felt very strongly about the environmental issues. He said he would like to see “stepping down” on the building, especially at the corners, and a more changeable roofscape. He suggested exploring transparencies at the corner of the building, particularly, where it had been disaggregated. He said there needed to be a destination at the top of the stairs. He had safety concerns about the promenade, and said the County needed to step up to the plate regarding the safety connection between Fisherman’s Village and Villa Venetia. He said the Department of Fish and Game, the County and the developer all needed to work together exploring ways to work on Area A.

Ms. Spitz stated that the landscape as drawn is not what she would like to see. She had concerns about the changeability of the roof and wished to make sure there was a restroom and that the promenade would be developed in innovative ways. She said boating safety also needed to be addressed

Ms. Spitz stated the Board would craft a motion to let the project go forward, and would like to draft a letter to Regional Planning to articulate some of their other concerns.

Mr. Phinney asked about the procedure for writing such a letter.

Mr. Faughnan stated one of the Board members could draft a letter and have it azenized at a meeting and discuss changes to it there.

Ms. Spitz (Phinney) moved to approve DCB #06-020, excluding landscaping, with the following conditions:

- 1) That the architect develops and shows and prepared drawings that show a more varied roofscape;**
- 2) That the contiguous roof levels are minimized;**
- 3) That greater transparencies be developed at the corners, at the first few floors connecting with the ground, and the link between the disaggregated buildings;**

- 4) That Applicant return with strategies for enhancing the desirability of retail, both to encourage public use and to make sure they are financially viable;
- 5) That Applicant return with a viable resident-serving retail core at ground level, including a publicly accessible component;
- 6) That the paseo or the promenade is developed in innovative or compelling ways and provides public amenities;
- 7) That restrooms are included in the facility;
- 8) That authentic sustainable landscape is developed with extends the flora of adjacent wetlands;
- 9) That visual linkage to Fisherman's Village is provided; and
- 10) That Applicant confirm that if a tidal flow pipe is feasible, it is included in the project plans.

[Unanimous consent]

2. **Approval of the Minutes of August 30, 2006, August 31, 2006 and September 21, 2006**

Ms. Spitz had one minor change on page 3 of 16 of Board Comments: change the word "a" to "the".

Mr. Phinney (Spitz) moved to approve the Minutes of September 21, 2006 as revised. [Unanimous consent]

Mr. Phinney (Spitz) moved to approve the Minutes of August 30, 2006 as submitted. [Unanimous consent]

Ms. Spitz mentioned that her landscaping comments had been omitted from the minutes of August 31, 2006.

Mr. Wisniewski replied that the minutes would be rewritten and resubmitted at the next meeting.

3. **Design Control Board Reviews**

A. **Parcels 111/112 – Marina Harbor –DCB #06-010-C**

Approval of the record of the DCB's August 30, 2006 action for conditional approval of further renovations.

Mr. Phinney questioned how they could approve the Review if the applicant had only recently installed the proposed signage samples.

Mr. Wisniewski suggested bringing back the action at the next meeting, after the Board had time to view the sample signage.

Mr. Phinney and Ms. Spitz agreed.

B. Parcel 64 – Villa Venetia – DCB #06-018

Approval of the record of the DCB's September 21, 2006 action for conditional approval of facility repainting.

Mr. Phinney (Spitz) moved to approve DCB #06=020 as submitted. [Unanimous consent]

C. Parcel 50 – Bank of America – DCB #06-020

Approval of the record of the DCB's September 21, 2006 action for approval of renovations.

Mr. Phinney (Spitz) moved to approve DCB #05-017 as submitted. [Unanimous consent]

Ms. Spitz asked if Staff and Board would be willing to forgo Agenda Item 6, since the meeting had gone very late into the evening.

7. Comments From The Public

Mr. Angel explained the Design Control Board should be involved all aspects of the construction and environmental matters and ignore the staff. The public should not be limited to three minutes and people should be able to trade time.

Mr. Wisniewski stated for the record that his response about the role of the Design Control Board is in answer on page three of the Department's October 19th memo to the Board (Exhibit A) and was further explained by County Counsel.

Ms. Franklin spoke about concerns regarding the Marina water table and the soil.

Mr. Hodder spoke about Villa Venetia.

Mr. De Lange spoke about Villa Venetia.

Mr. Nicholas complained there is no accessibility for the handicapped. He gave an overview of different locations in the marina and complained that none of these issues had been addressed. He also said he would like to see separate restrooms for boaters and the public.

Ms. Spitz asked if staff could look into this.

Mr. Faughnan stated that Mr. Nicholas was currently engaged in a lawsuit against the Lessee and the County. The County takes its charge to comply with ADA and all new projects are in ADA compliance. If there are specific complaints that Mr. Nicholas has about particular areas that he believes are not compliant, he can certainly bring those to the Department and they will inspect them.

Mr. Phinney asked if there was an ADA-compliant survey that had been done in the Marina as a whole by the County.

Mr. Faughnan stated he did not have that information, but would not want to comment further, as he was not aware of the status of the current litigation.

Ms. Marino stated the public needs a review of the comprehensive plan.

Ms. Hanscom talked about the cleanup that needed to be done at the prior gas station at Fiji Way and Lincoln Blvd. She complained there were no native plants there.

Mr. Van de Hoek asked what landscape architect would have ever thought that planting non native plum trees would bring the invasive Norway rats to create plague and eat bird eggs.

Mr. Wisniewski thanked the Board for their time and for staying late.

9. Adjournment

Meeting adjourned at 11:27 p.m.

Respectfully Submitted,

Maureen Sterling
Acting Secretary for the Design Control Board

Attachments (3)



"To enrich lives through effective and caring service"



October 19, 2006

Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

To: Design Control Board
**From: *Kerry Silverstrom for*
Stan Wisniewski, Director**
**Subject: BOARD MEMBERS' REQUESTS FOR INFORMATION AT
AUGUST 31, 2006 MEETING**

At your August 31, 2006 meeting during the discussion regarding the proposed redevelopment at Parcel 64 (Villa Venetia Apartments and Condos), Board Members posed a series of questions, which County staff was requested to answer. These questions and their answers as prepared by Beaches and Harbors (DBH), County Counsel and Regional Planning (DRP) representatives are as follows:

Question 1: Explain how Marina redevelopment projects are processed.

Answer: There are two different tracks Marina redevelopment projects follow, the first being the proprietary track and the second being the regulatory track. On the proprietary track, DBH initially released either Requests for Proposals (RFP) or Invitations to Accept Lease Extension Proposals to solicit redevelopment proposals, which documents were approved in public hearings at both the Small Craft Harbor Commission (SCHC) and the Board of Supervisors (BOS) before they were released. Once redevelopment proposals were submitted in response to the solicitation documents, evaluation committees (including a Chief Administrative Office representative and legal, economic and planning consultants and staffed by DBH) reviewed proposals and made recommendations to the Director of DBH, who, in turn, took those recommendations to both the SCHC and the BOS prior to entering into exclusive negotiations with the recommended proposed lessees or existing lessees (collectively hereinafter "lessees") for either new leases or lease extensions, respectively. During the negotiation process, the economic deal and the redevelopment project itself are negotiated between the County negotiating team (including the Chief Administrative Office, DBH and legal and economic consultants) and the lessee. Instructions are provided to the County negotiating team from the BOS with respect to these deals during BOS executive sessions.

Once a term sheet has been approved by both the lessee and the BOS, the proprietary track continues into development of lease documents, which are ultimately brought to the SCHC and the BOS in the form of an option agreement for recommendation and approval, respectively. Pursuant to the option agreement, the County is not required to

enter into the lease or lease extension unless the lessee fully complies with a number of conditions, including obtaining all necessary entitlements, as discussed below. With the approval of a term sheet, the regulatory track with respect to that redevelopment project may commence.

On the regulatory track, the Design Control Board (DCB) first conceptually considers a project. Once cleared through DCB, a lessee may file an application with DRP for its proposed redevelopment project, which commences the period when an Environmental Impact Report (EIR) may be prepared, discussed more just below. Once an application has been deemed complete, the redevelopment project is presented to the Regional Planning Commission (RPC) for issuance of a coastal development permit (CDP) for landside improvements. Decisions of the RPC may be appealed to the BOS. Original jurisdiction remains with the California Coastal Commission (CCC) for waterside improvements, to which landside CDPs may also be appealed (if there exists a substantial issue). Also, any amendments to the certified Marina del Rey Local Coastal Program (Marina LCP) necessary for a proposed project must first be approved by the RPC and, then, the BOS and the CCC.

Question 2: What is the County's Environmental Impact Report (EIR) process and what is the controlling agency(ies)?

Answer: The County's current EIR process for Marina redevelopment projects does not begin until after the initial conceptual review of the project by the DCB. At present, provisions of the Marina LCP do not allow the filing of an application with DRP – or, therefore, the formal commencement of the California Environmental Quality Act (CEQA) process – until the DCB has completed its initial review. A recent BOS order, however, has requested the RPC to come back in early 2007 with a recommended Marina LCP amendment that would allow filings of project applications with DRP prior to DCB review. No matter when the review occurs, because CEQA primarily applies to discretionary decisions to approve a project and the DCB's review is advisory only and not an "approval" as defined by CEQA, the DCB review is exempt from the application of CEQA.

Once an application for a Marina development project is filed, DRP initiates the CEQA review. An EIR is determined to be necessary if there are one or more significant impacts identified during the County's Initial Study review. In the alternative, an Initial Study may determine that a negative declaration or mitigated negative declaration is appropriate. Once the County determines an EIR is necessary, a Notice of Preparation is sent to responsible and interested parties to publicly indicate that an EIR is necessary for the disclosure of the potential significant impacts resulting from a proposed project. The Draft EIR (DEIR) is provided for public comment 45 days prior to a public hearing on

the DEIR and the project before the RPC. After the close of the public hearing, the County prepares a Final EIR, which includes any revisions to the project and the response to the comment letters received on the DEIR. The Final EIR is sent to all commenting agencies ten days prior to the RPC taking final action on a project. The BOS may also consider and certify the EIR if a decision of the RPC is appealed to the BOS.

Question 3: What happens if a Marina project as negotiated can't be developed due to California Environmental Quality Act (CEQA) constraints? What happens to the term sheet?

Answer: The lessee is responsible for securing the necessary entitlements and assumes all risk with respect thereto. It is anticipated by both the County and lessee that project variations might occur during the regulatory process, and the deals negotiated account for typical project revisions. To the extent a project has been so radically changed that it does not "pencil out" for the lessee, the proprietary phase would recommence to the extent both parties are willing, and a revised term sheet would be negotiated. This most recently happened in connection with a residential redevelopment project that had to include and account for replacement affordable housing units. Even if redevelopment deals are ultimately unable to advance, the negotiated deals require the parties to execute lease amendments to existing leases, i.e., new market rate percentage rents, County participation in sale and refinance, obligation to reimburse County costs for negotiating lease deal, sinking fund for removal of improvements upon lease termination, assignment disclosure provisions, assessments for late payments, increased security deposit, new insurance level and minimum rent adjustment cycles, improved record-keeping standards, liquidated damages for lingering maintenance deficiencies, modernized arbitration provisions.

Question 4: What is within the Design Control Board's purview, and what is legitimately an issue before this body?

Answer: The DCB is composed of five members appointed by the BOS and charged with: (1) reviewing and approving the architectural design and landscaping of improvements in the Marina for compliance with applicable laws, ordinances, contracts, leases and policies; (2) advising the DBH Director concerning the implementation of architectural design regulations and policies and related matters; and (3) performing such other duties as may be requested by the BOS. The ordinances establishing the DCB and its powers are set forth in County Code §§ 2.116.110 - 2.116.140.

The DCB is also discussed in the County's certified Marina LCP. Under "Land Development Entitlement Procedures" in the Marina Del Rey Land Use Plan ("LUP"), it states that the DCB shall review all new development proposals for "consistency with the

Manual for Specifications and Minimum Standards of Architectural Treatment and Construction and the certified LCP, including the identity and accessibility of the Marina as a public boating and recreational facility, and shall recommend such modifications to the design as they deem appropriate.” The DCB's review “shall be completed prior to any application for development being submitted to the Department of Regional Planning for case processing.” (LUP, p. 8-8.) In the "Coastal Visual Resources" section of the LUP, it notes that signing, building design, site planning and façade design in the existing Marina shall continue to be controlled by the DCB and goes on to state that the DCB shall review all new development proposals "for consistency with the policies and objectives of this LCP and shall recommend such modifications to the design as they deem necessary." Once again, it states that the DCB's review shall be completed prior to any application for development being submitted to DRP for case processing. In reviewing signs, the DCB may refer to the Permanent Sign Controls and Regulations and the Specifications and Minimum Standards of Architectural Treatment and Construction. (LUP, p. 9-4.)

The Marina del Rey Specific Plan, Chapter 22.46 of the Los Angeles County Code, is a key component of the Local Implementation Program ("LIP") of the Marina LCP. The Specific Plan is designed to implement the general guidelines, concepts and policies of the LUP. The Specific Plan sets forth the specific responsibilities of the DCB: (A) Signs—the DCB is charged with regulating signs in the Marina through application of the DCB's Revised Permanent Sign Controls and Regulations (County Code § 22.46.1060.D.1); (B) Architectural Treatment—design review is the responsibility of the DCB's Statement of Aims and Policies (County Code § 22.46.1060.E.4); and (C) Site Plan Review—all applications for development in the Marina must include accurate, scaled site plans and elevations showing gross square footage of existing and proposed development, parking, and parking requirements, as well as access and view corridors required by the Marina LCP, which must be signed and approved by the DCB (County Code § 22.46.1180.A.12). Section 22.46.1180.A.12.a. goes on to state that:

“The design control board shall review the development for conformance of the project with this specific plan and with the identity and accessibility of the marina as a public boating and recreational facility. The board’s analysis shall address, at a minimum, public access, height, circulation, massing, visual impact, views, and view corridors, compatibility of uses in a mixed use project, and the visibility and convenience of public spaces as they pertain to the policies of this LCP. The design control board shall adopt a written report and/or exhibits describing their analysis and recommendations. The design control board, as a condition of its approval, may require the applicant to return with final plans for approval of signage, landscaping, color and other details.”

Section 1.F of the "Specifications and Minimum Standards of Architectural Treatment and Construction" (Exhibit C to the LIP) provides in subsection 1 that "[n]o improvements will be made or structures erected upon said premises without the prior approval of the Design Control Board." Subsection 2 of section 1.F further states:

"Before commencing any construction work or improvements upon the premises, the lessee will submit to the Design Control Board a complete set of drawings, plans, and specifications of the proposed improvements, and the Board shall have the right to make and order changes, modifications, or alterations in said drawings, plans and specifications. All such drawings, plans and specifications must be approved by the Board as submitted, or as so changed, and no change shall thereafter be made without the consent of said Board given in writing."

The Specifications and Minimum Standards of Architectural Treatment and Construction also set forth specific matters for the DCB to review, including alterations, remodeling and changes; signs; canopies and awnings; landscaping; flagpoles and radio, television and satellite antennas.

The DCB's "Revised Statement of Aims and Policies" (part of Exhibit C to the LIP) sets forth the DCB's aims and policies on topics such as architectural style and theme, operational function and layout, and esthetic considerations. It also describes the organization and procedures of the DCB.

The "Revised Permanent Sign Controls and Regulations" (part of Exhibit C to the LIP) states that all signage, other than small informational-directional signs and certain temporary signs, must be approved by the DCB and sets forth the sign guidelines and procedure for processing and approval.

In conclusion, the role of the DCB may be summarized as follows:

1. The DCB must review new development proposals for conformance with the Marina Del Rey Specific Plan and with the identity and accessibility of the Marina as a public boating and recreational facility. Its analysis must address, at a minimum, public access, height, circulation, massing, visual impact, views, and view corridors, compatibility of uses in a mixed use project, and the visibility and convenience of public spaces as they pertain to the policies of the Marina LCP. The DCB must adopt a written report and/or exhibits describing its analysis and recommendations for the design of the project.
2. The DCB must sign and approve site plans and elevations.

3. The DCB, as a condition of its approval, may require the applicant to return with final plans for approval of signage, landscaping, color and other details.

4. The DCB must review development proposals in accordance with the Specifications and Minimum Standards of Architectural Treatment and Construction, the Revised Statement of Aims and Policies, and the Revised Permanent Sign Controls and Regulations to the extent applicable.

Question 5: How does the County define “affordable housing”?

Answer: What constitutes "affordable housing" is defined by State law. Affordable housing can best be described based upon two components: (1) those persons and families meeting the income eligibility requirements for affordable housing; and (2) the rent to be charged for occupancy of a residential dwelling unit designated as affordable housing. Affordable housing requirements for the coastal zone are governed by the Mello Act (Government Code section 65590, *et seq.*) (see response to Question 6, below). Under the Mello Act, the term "affordable housing" is not used, instead, the Mello Act refers to "residential dwelling [or housing] units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code."

Health and Safety Code section 50093, in turn, defines persons and families of low or moderate income as being those persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the California Department of Housing and Community Development ("CDHCD") in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development ("HUD") pursuant to Section 8 of the U.S. Housing Act of 1937. Under the umbrella of "persons and families of low or moderate income," the State has further defined the following subsets: (1) extremely low income households (gross incomes do not exceed 30 percent of the area median income, adjusted for family size by HUD); (2) very low income households (gross incomes do not exceed 50 percent of the area median income, adjusted for family size by HUD); (3) lower income households (gross incomes do not exceed 80 percent of the area median income, adjusted for family size by HUD); and (4) moderate income households (gross incomes do not exceed 120 percent of the area median income, adjusted for family size by HUD). Each year, the CDHCD sets the income eligibility requirements for each category by county. By way of example, the 2006 State Income Limits for a household of four persons in Los Angeles County is as follows: (a) extremely low income—\$20,800; (b) very low income—\$34,650; (c) lower income—\$55,450; (d) median income—\$56,200; and (e) moderate income—\$67,400.

"Affordable rent" is defined by Health and Safety Code section 50053 as follows: (1) extremely low income—the product of 30 percent times 30 percent of the area median income, adjusted for family size appropriate for the unit; (2) very low income—the product of 30 percent times 50 percent of the area median income, adjusted for family size appropriate for the unit; (3) lower income—the product of 30 percent times 60 percent of the area median income, adjusted for family size appropriate for the unit; and (4) moderate income—the product of 30 percent times 110 percent of the area median income, adjusted for family size appropriate for the unit. Affordable rent also includes a reasonable utility allowance.

"Affordable housing cost" is defined by the Health and Safety Code section 50052.5 as follows: (1) extremely low income—the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit; (2) very low income—the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit; (3) lower income—the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit; (4) moderate income—no less than 28 percent of the gross income of the household, or more than the product of 35 percent of 110 of area median income, adjusted for family size appropriate for the unit.

Lessees that are required to provide affordable housing units in Marina del Rey will be required to charge no more than the rent or housing cost applicable to the income level designated for the unit (i.e., a very low, lower or moderate income unit) and will be required to rent or sell the unit to a person or family who meets the State income eligibility requirements for the income level designated for the unit for so long as the requirement is imposed.

Question 6: What is the affordable housing requirement in Marina del Rey?

Answer: Affordable housing requirements for the coastal zone are governed by the Mello Act (Government Code section 65590, *et seq.*). The basic requirements of the Mello Act are: (1) converted or demolished residential units that are occupied by low or moderate income persons or families must be replaced on-site or within the coastal zone if feasible, if not feasible, then within three miles of the coastal zone ("replacement units"); (2) new residential projects must provide housing units affordable to low or moderate income persons or families where feasible, if not feasible, then elsewhere in the coastal zone or within three miles thereof, where feasible ("inclusionary units"); and (3) demolition or conversion of residential structures for the subsequent development of commercial uses that are not coastal dependent can only be approved upon a finding that residential use is no longer feasible at that location. "Feasible" means capable of being accomplished in a

successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

While the Mello Act does not require local jurisdictions to adopt a policy or ordinances to implement the Act, the County has had an affordable housing policy for Marina del Rey since 2002. The County is currently formulating a revised policy. In the interim, the County is applying the Mello Act on a project-by-project basis, as it had done prior to 2002.

The RPC determines each project's compliance with the Mello Act during the entitlement process. Such determinations are appealable to the BOS.

Question 7: Can the California Coastal Commission now designate an area in Marina del Rey as ESHA (Environmentally Sensitive Habitat Area)? If so, is the Commission on the verge of designating Parcel 64 as an ESHA?

Answer: No. Once an LCP is fully certified and, accordingly, permit authority has been returned to a local jurisdiction, as has occurred with respect to the Marina LCP, the California Coastal Commission (CCC) may not initiate or approve any changes to the regulations of the LCP. The CCC may offer comments, just as any other agency may, on the resources in Marina del Rey at any time, on its own or through the CEQA process as individual development projects are considered. However, the CCC has no jurisdiction to either designate ESHA on its own or to import an ESHA designation through the appeal process of a particular project. Moreover, the appeal of any Marina project to the CCC is limited to the project not conforming either to the standards set forth in the Marina LCP or to the public access policies of the Coastal Act. Therefore, as the Marina LCP does not have an ESHA section, the CCC has no jurisdiction to hear an appeal of a project on the basis of ESHA.

Because of this limit on CCC authority, it has sought legislative changes to the Coastal Act over the years. Specifically, the CCC has asked the Legislature to allow it to force LCP amendments or to authorize it to consider new issues or changed circumstances in project appeals. The Legislature has consistently rejected these proposals.

Accordingly, the assertions regarding the CCC's "imminent designation" of Parcel 64 as ESHA are inaccurate. The CCC cannot legally do this, nor has the CCC ever suggested that it possesses this authority. In fact, as noted by CCC staff in its recent Marina LCP periodic review report, the CCC has actually declined to designate heron nesting trees as ESHA in Channel Islands Harbor. However, CCC staff has also recommended in its periodic review report that the County should study the issue of whether ESHAs exist in Marina del Rey and, if so, the County should include ESHA policies in the Marina LCP

for their special handling. This is a recommendation not yet fully considered by the CCC itself. At the time of this writing, it is expected the periodic review staff report will be considered by the CCC at its January 2007 meeting in either Los Angeles or Orange Counties.

The County does not believe that any of the resources in the Marina constitute ESHA. However, contrary to some assertions at various meetings, merely because potential resources are not ESHA does not mean they are not accorded protection under CEQA. Specifically, the County engages in a thorough CEQA process with each project, and the decision-makers weigh the environmental information at the time of decision. If the decision-makers believe the resources are deserving of protection, preservation or mitigation, the decision-makers have adequate tools within CEQA to accomplish this goal. Nevertheless, ESHA claims remain a popular basis for commenters desiring to encourage decision-makers to preserve, rather than mitigate, a resource.

Question 8: Does DBH take seriously its charge about preserving the environment?

Answer: Yes. Particular to the letter sent by the Director of DBH to the State Department of Fish and Game (DFG) with respect to trees on Parcel 64 that contain Great Blue Heron nests, given the immediate adjacency of several hundred acres of a State-owned ecological reserve, we firmly believe relocation of trees where these birds nest to this neighboring reserve – an area, we note, specifically purchased by the State for resource protection – is not only appropriate, but also sensitively balances the various interests in the Marina (i.e., bikers, walkers, residents, boaters, bird enthusiasts, tourists). Moreover, rather than waiting to see if the trees could be merely removed without mitigation, which is an entirely possible and not unlikely alternative if no significant impact is found under CEQA – or, for that matter, waiting for the trees to die –, both the County and Parcel 64 lessee have been proactively working on what we consider to be a win-win solution for all interested parties. We have done this now – even before the preparation of an EIR – in order to create awareness of the issue at the appropriate regulatory agencies and to generate consideration of the environmental challenges and opportunities at the earliest moment in the development process.

This is not dissimilar to actions taken by DBH with respect to the wetland located on Parcel 9U in fashioning a solution to allow the hotel project to be developed (allowing for an additional visitor-serving facility and, thereby, increased public access in the Marina) and yet to also preserve and, indeed, enhance the wetland. Many months have been spent in working out a solution acceptable to the Coastal Commission biologist with respect to the wetland restoration plan – all of this in advance of the commencement of a project EIR. Similarly here, we have been in discussions not only with DFG, but also with an

interested Coastal Commissioner about how best to protect these and other birds while allowing the Marina's redevelopment to occur.

Recognition of the potential environmental impacts of a development project and outreach to appropriate regulatory agencies at the earliest opportunity to explore options is, we believe, a proactive and responsible manner for dealing with environmental protection in an urban setting – and one with several other “competing” interests as well, i.e., recreational boating, public access, housing needs. Such an approach in no way predisposes the outcome of the environmental process. Indeed, such consultation efforts would be undertaken in any event in the CEQA process. By starting early, however, DBH was able to make the DFG aware of opportunities available to it and also gave both parties the chance to open a dialogue on the broader issues of the restoration of the neighboring reserve, as the response from DFG substantiates.

Question 9: Is Fiji Way a mole road?

Answer: Fiji Way is a dedicated public road maintained by the County's Department of Public Works. It is not a mole road, albeit the Land Use Plan may have created confusion due to inconsistent references to Fiji Way. Whether or not Fiji Way is a mole road, however, has no bearing on the height limit for Parcel 64 (see response to Question 10 below).

Question 10: What is the height designation in the Marina del Rey Local Coastal Program (LCP) for Parcel 64?

Answer: As discussed above, development guidelines for Marina del Rey consist of two components: the Marina del Rey Land Use Plan and the Marina del Rey Specific Plan. According to section 22.46.1020.D. of Part 3 of Chapter 22.46 of the Los Angeles County Code, the Marina del Rey Specific Plan:

“...is the key component of the Local Implementation Program for Marina del Rey. It is designed to implement the Marina del Rey Land Use Plan through the application of site-specific development standards and guidelines. The Specific Plan constitutes the most detailed interpretations of General Plan Policy.”

Parcel 64 is located in the Harbor Gateway Development Zone 11. In the “Special Development Considerations” component of section 22.46.1900 of the Marina del Rey Specific Plan, Parcel 64 is designated: “Height Category 4. Building height not to exceed 140 feet (emphasis added).”



DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>



October 25, 2006.

Stan Wisniewski, Director
County of Los Angeles
Department of Beaches and Harbors
13837 Fiji Way
Marina del Rey, CA 90292

SUBJECT: Commentary on the role of the Ballona Ecological Reserve in redevelopment of Marina del Rey; Request for cooperation on tidal conduit through County property.

Dear Mr. Wisniewski:

The California Department of Fish and Game (DFG) appreciates the cooperative atmosphere between our agency and the County of Los Angeles (COUNTY) with respect to redevelopment of Marina del Rey and the restoration of the Ballona Ecological Reserve (ER).

On May 12, 2006, Dr. Larry Eng wrote to you in response to your offer of cooperation on cypress tree relocation to encourage continued heron habitat use while facilitating redevelopment of Marina del Rey. In establishing the ER in 2005, we specifically recognized that the County intended to redevelop the Fiji Way area which abuts the ER, and that the establishment of the ER would not precipitate any conditions or re-design requests on the development proposals in Marina del Rey. We made these statements at the August 19, 2005 Fish and Game Commission meeting in San Luis Obispo, in response to an expression of concern from the County that the designation of Ballona as an ER would signal a future requirement that areas of Marina del Rey support the ecological function of the ER. We did not believe that this was necessary then, and we do not believe it is necessary now.

Our May 12, 2006 letter declined the relocation of Marina del Rey trees to the ER at this time because we are not at a point in the planning process where we can make such a decision. However, we remain convinced that the ER has sufficient area to accommodate a heronry such as is marginally present along Fiji Way. We hope that we may continue to engage the County in discussions concerning the relocation of the Fiji Way heron habitat - in all or in part - to the ER.

In the meantime, and consistent with our desire to dialogue with the County on areas of mutual interest, we have determined that a pipe to exchange tidal flows between the entrance channel to Marina del Rey and the Area A portion of the ER is an indispensable prerequisite to restoration of the Area A Wetlands. I understand that members of my staff and your staff, and your consultant, have been exchanging ideas on the location of

Mr. Wisniewski Letter

October 25, 2006

Page 2

such a feature. I realize that the Department cannot require such an accommodation from the County, and I also realize the practical issues with the fact that some leases may no longer be open to suggest inclusion of this pipe feature. Your staff and consultant have made my staff aware that there is also a jail within the County complex, which for security reasons cannot be a site for the pipes/conduit.

My staff informs me that there is really only one leasehold through which this pipe/conduit feature could pass at this point. I understand, this leasehold is under active negotiation. The location of the leasehold is such that it provides a series of ideal circumstances for the conduit – the shortest routing to the channel, the lowest elevation of the Area A portion of the ER, and subsequently we believe the most cost effective path for tidal return to this portion of the ER.

Although the DFG planning process is not yet complete, there is no doubt that we wish to restore tidal saltwater marsh to large portions of Area A, and therefore there is no need to wait until all studies in process are complete. We ask to work with you now so that the opportunity for this feature will not be precluded by future lease terms.

DFG also acknowledges that the routing through the leasehold which is most efficient for the DFG will eliminate several cypress trees which currently serve as habitat for Great Blue Herons. We believe this is a necessary impact in the development of a richer mosaic of sustainable wildlife habitat for the ER. It is important to note, that DFG is not discounting the biological and intrinsic value of the Blue Herons to both the environment and members of the community, but rather that the removal of the cypress will not be significant for the following reasons:

1. Cypress are non-native trees which have come to serve only recently as habitat for these birds. The birds actually originated in Ballona, and the trees that were their primary roosting and nesting habitat still exist. If the current Cypress trees are removed, our habitat specialists are confident that the birds will recruit to the original area or use nesting habitat at your offices, which is not proposed for removal. Therefore, we believe that there is no impact to these colonial nesters.
2. Great blue herons, while an important component of local biodiversity are neither endangered nor threatened. They have enjoyed a considerable resurgence in this area and significant reductions in their numbers are not expected.
3. Great blue herons are efficient predators of eggs and hatchlings of other birds, (including least terns), rodents and amphibians. Accordingly, DFG will have to consider spatial distribution and population numbers in crafting recovery strategies for threatened and endangered species to insure predation by herons does not frustrate recovery.

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Mr. Wisniewski Letter

October 25, 2006

Page 3

I realize that there has been considerable controversy over the planned demolition of these trees. I note that the California Coastal Commission staff have recently taken a position that the Great blue herons are "top predators" and therefore necessary to the health of wetlands. We are committed to a restoration plan that will provide the most sustainable biodiversity we can reclaim from this degraded landscape. However, until a healthier ecosystem can be established the blue heron has to be recognized as a potentially significant stressor to the species viability of the Area A wetland.

If your agency is amenable to allowing the DFG to acquire an easement in the vicinity of the Villa Venetia project, we would welcome the opportunity to dialogue with you and provide technical input to the issue of impact from removing the trees. If you are agreeable to this approach, please notify me so that my staff can schedule the appropriate meetings.

Sincerely,



L. Ryan Broddrick
Director

cc: Banky Curtis
Sonke Mastrup
Rob Floerke
Dr. Larry Eng

October 26, 2006

Dear Fellow Commissioners, Staff and Members of the Public,

I begin with my apology for my absence. The Villa Venetia proposal has the potential to be a landmark project for the Marina and I wish I could be with you to discuss it in person.

What follows are some of my main thoughts and concerns, which I have asked staff to share with all of you. Some of these thoughts and concerns I have already shared with the applicant's representative and with Commissioner Phinney.

Having reviewed the submittal and having met with the applicant's representative I continue to have unanswered questions. I have three main areas of concern which I hope will be discussed in the meeting.

1. At our previous hearing on Villa Venetia the DCB asked for the applicant to respond to design issues. I focused on views and connections – views through to the water and connections to the bike path and to fish village and other members had questions about transparency and disaggregation of buildings and questions regarding creating destinations. I did not see these issues addressed in the packet in a way that was specific to the Marina and to this project.
2. The issue of protection of Heron habitat remains critical. If, as has been suggested, the herons can be relocated, it would be essential to have this information presented. Another alternative would be to have a plan B which would show a concept plan which left the Heron habitat in place. In either case I think it would be appropriate for the DCB to require that we receive a peer reviewed report that would explain both the science and the process for the protection of the herons.

It has been suggested that this would be more appropriately reviewed by Regional Planning as they are the lead agency for the EIR. However, this may not be a CEQA issue, this may be a legal issue under regulations protecting habitat and regulations protecting migratory birds. This is a question which was asked, but not answered.

In order to approve this project it would require approving a building footprint which assumes the destruction of the heron habitat. Therefore, the information the DCB has requested is appropriate at this time.

3. The height issue is more complicated in that, at 140', it changes the Marina environment to a more dense, urban landscape and challenges the resort and recreation destination that is both the mission of the Marina, as outlined in the goals of the LCP, and, at the same time, the best opportunity for the Marina to capture its reasonable share of the multi billion dollar tourist economy of Southern CA.

I would suggest that building Villa Venetia to take maximum advantage of the fact that the herons are there and have acclimated themselves to living in such close proximity to

humans might be an opportunity for creating the eco tourism recreation/resort destination that we have all agreed would be of benefit to the Marina.

However, as the height is allowed under the Local Coastal Plan it would be appropriate to forward any concerns regarding height to Regional Planning as they review the range of issues and information which might cause them to restrict the height from the maximum allowed.

Thank you for considering my comments.

Susan Cloke

October 26, 2006

To: Design Control Board, Marina del Rey

From: David De Lange, PhD, Executive Director, Coalition to Save the Marina

Subject: Partial Text of Presentation on Villa Venetia, October 26, 2006

Significant disturbance of North and South jetty Views not allowed.

Text for this section to be presented verbally at October 26, 2006 hearing)

Nesting Great Blue Heron at Villa Venetia (2005)

As long as Lyon Management proceeds with its proposal, it will face additional, altogether insurmountable legal and practical barriers of all sorts, many to be discussed later by other presenters. Consider with me next the plight of the nesting Great Blue Herons at and near the edges of Villa Venetia. Dr. Froke was hired by Lyon Capital Ventures essentially to deal with the obstacles these primitive creatures pose to demolition. As he continues to write and testify about the herons, Dr. Froke appears to me to be creating for himself an increasingly serious credibility problem. Let's begin with Dr. Froke's crucial inventory of Great Blue Heron nest trees, nests and the Heron chicks that have occupied them at or near Villa Venetia during the two nesting seasons, years 2005 and 2006.

We begin with 2005. We have irrefutable evidence, provable beyond a reasonable doubt, of the following three truths.

1. Dr. Froke told this Board, told our attorney, and wrote that the observational ingredients of his May, 2006 heronry report related to Villa Venetia were based on site visits occurring between July and September, 2005, almost a year earlier than the report.
2. We have irrefutable evidence given to us by biologists, experienced birders, and some of the few hundred Villa Venetia households, that there were 5 nest supporting fan palm trees at or near the edges of Villa Venetia that were active with Great Blue Heron nesting in 2005. Four of these five active nests, the four in palm trees at the UCLA boathouse, existed in those trees every day of the year 2005 and the fifth nest existed much of 2005 and stood near and to the south of the downstairs swimming pool.
3. Dr. Froke's May, 2006 report shows no awareness whatsoever that these 5 heron nest supporting trees existed during the year 2005.

In light of these irrefutable facts, we have a question for Dr. Froke. Which of the following three explanations of your failure to report the 5 palm nest trees in your May, 2006 report is the true explanation?

1. You did not detect and/or study these five palm trees during 2005.

2. You detected and/or studied them but saw no nests or heron chicks in them during 2005.
3. You studied the 5 palm trees, saw nests and/or chicks in the nests in 2005, but did not report them in your May, 2006 report.

The third answer, this last answer, would show that in May, 2006 Dr. Froke filed a false report by not describing what he knew. The first and second answers would show that Dr. Froke made several very basic scientific errors of observation—overlooking half of the nests--and that would seriously call into question his suitability for this project.

One more point: photographers and other observers indicate that between 13 and 15 heron chicks were fledged from the 5 palm tree nests in 2005, all of which Dr. Froke failed to document. Dr. Froke cannot now claim that he did not document these 5 trees, nests and nestlings because they were 8 feet off-property and thus irrelevant to his on-property study, because in the very same document he describes a palm tree nest, over 400 feet away from the Villa Venetia property, that held a Great Blue Heron nest.

Nesting Great Blue Heron at Villa Venetia (2006)

Let's turn to the nesting year 2006, one season later. Dr. Froke in his letter of October 11, 2006, to the County's Michael Fischer states that, in this year 2006, there have been 10 Great Blue Heron nests at Villa Venetia instead of the mere 4 nests he documented in 2005. But let's look more closely at Dr. Froke's reporting habits concerning the current year, a year when he claims very incorrectly that 6 new GBH nests were created at Villa Venetia, now totaling 10. Here's the problem: when he appeared at the Design Control Board August 31, two months ago, one of the following two possibilities was true:

1. Either Dr. Froke had not already personally studied the Villa Venetia rookery including the 6 nests that he now claims (incorrectly) appeared for the first time at Villa Venetia in 2006 or
2. Dr. Froke, when at the Villa Venetia hearing 2 months ago, had already studied the V V rookery including the 6 nests that he now claims (incorrectly) appeared for the first time in 2006.

If the first possibility is true, that is, that on August 31, 2006, Dr. Froke had not done the field work necessary to observe those six nests in 2006, then clearly his field work for 2006 is profoundly flawed. Why? Because he claims (I might add quite falsely) in his letter two weeks ago that the nesting season at Villa Venetia ended on August 15, 2006, in which case he would have missed the opportunity to study what he claims was the entire nesting cycle for these six nests.

So I imagine that Dr. Froke would have to choose possibility number 2, that he was aware of these six nests prior to the August 31 DCB hearing. But if that is so, why on earth did he not create any written or verbal documentation of these 6 nests at or prior to the Design Control Board meeting two months ago. Surely the existence of what he claims are six brand new nests standing right on the edges of the footprint of a proposed

new high rise at Villa Venetia was something the Design Control needed to know about from him at that meeting last August. Froke could have communicated the basic facts about the six nests in a few written sentences before the meeting or at the microphone during the meeting, but he did not. His failure to report for the first time the 6 allegedly new nests means that Dr. Froke might have stood by and watched the Design Control Board approving the redevelopment project without his having ever told the Board about the nests. What does this look like to you?

Because of his severe scientific, possibly personal shortcomings, we submit that Dr. Froke's work is of no further value in these entitlement proceedings.

Legal Protections For and Length of Great Blue Heron Courtship and Nesting Cycle

The herons of course stand in the way of demolition plans at Villa Venetia. The County and Lyon Capital Ventures favor uprooting nine on-premise trees and either replanting them and/or creating nest supporting trees or structures elsewhere. The birds are supposed to cooperate by moving their highly intricate, complex society to the new location and staying put there.

Biologists working for developers usually try to determine the dates forming the beginning and end of a bird species' courtship and nesting cycle, partly because they believe that many species have fewer legal protections from harassment and disturbance to their habitat outside of this courting/nesting cycle. One issue a lead project biologist like Dr. Froke would be asked to consult on in a heron relocation effort concerns when it would be permissible to engage in the major disturbance of trying to convince the herons to relocate.

Interested parties know that various laws generally prohibit significant disturbances to heron habitat while the birds are nesting. Of course, courting precedes and leads to nesting but courting is also legally protected from disturbance. However, Dr. Froke wrote two weeks ago to Mr. Fischer: "There are no legal protections for courting." (10/12/06 memo, p. 3) This is a false statement with possibly serious consequences. It might have lead to a plan to relocate or otherwise disturb Villa Venetia herons during courtship. Dr. Froke's not knowing of courtship protection becomes even more important when we realize that GBH courtship at Villa Venetia each year typically begins months ahead of courtship at other historical rookeries, according to knowledgeable biologists and the L.A. Times.

Courtship of Great Blue Herons at Villa Venetia on November 28, 2000, was memorialized by an L.A. Times photographer. Furthermore, numerous legal and media documents reveal that tree trimming of Villa Venetia's nest supporting trees was legally prohibited and the prohibition enforced on site by armed Department of Fish and Game wardens, merely because the Villa Venetia herons were courting in November, 2000. Here's what DFG Lieutenant Smirl wrote to his regional manager on November 30, 2000: "DFG assessment through law enforcement, biologist, local experts and property owners agree that the birds are in a pre-nesting phase, specifically courtship behavior. . .

...pursuant to CCR (California Code of Regulations) -T-14 251.1. . .to trim the tree or trees would create a situation of harassment at the current time.” This sounds like go-to-jail legal protection to me. Importantly, this protection of heron courtship, which I have just documented significantly lengthens the time frame each year during which it is a misdemeanor to disturb the Great Blue Herons. It’s part of Dr. Froke’s basic qualification for his job that he be aware of such protection but two weeks ago he apparently was not.

So the heavily protected annual courting/nesting season at Villa Venetia begins in November of the previous year. When does nesting end? Dr. Froke wrote falsely 2 weeks ago that in 2006 at Villa Venetia “...the last on-property fledging for the season took place in mid-August.” (memo to M.F. p. 2). By this he means that the nesting cycle had ended. Even if what he says were true, it would be very misleading. Last hearing we showed Leah Walton’s video of an awkward heron chick standing and stumbling about near its palm tree nest at the UCLA boathouse, 8 feet from the Villa Venetia property edge on August 29, 2006. Surely this young bird needs the same protection as on-property birds and yet the fact that this bird is clearly still a nestling and not fledged two weeks past mid-August, 2006 is undocumented by Dr. Froke. Is this a biologist working to determine the truth or working toward a predetermined conclusion needed by his employer, Lyon Capital Ventures?

Heron Relocation to Gull Park in Port of Long Beach

The plan for these defenseless herons is to relocate. They are supposed to cooperate by moving and then staying put in their new digs.

Let us now turn to the tragic story of the heron relocation misadventure in the Port of Long Beach. Since the last hearing I have secured the nine annual reports on that disaster, years 1998 through 2006, all prepared by MBC |Applied Environmental Sciences. The reports are similarly entitled “Black-crowned Night Heron (BCNH) study 1998, 1999” etc. The overall conclusions of these reports are shocking and disheartening. The BCNH is a stocky gray, black-capped bird about half the height of our GBH and looks like a miniature football player, sort of like a linebacker. Following the relocation, two kilometers away to Gull Park, of a few hundred Black-crowned night heron (GBNH) nests—the number of actively used nests plummeted from 400 in year 1999 to zero active nests in 2006. Yet, white-washing scientists, employed or heavily influenced by development interests, claim that the initial so-called success of the relocation proves that relocation is a good idea and that noisy disturbances at Gull Park were really the culprit responsible for the complete abandonment of all 400 BCNH nests by 2006. That’s an Orwellian insanity, where you tells the Big Lie, repeat it time and again—the secret to advertising-- and cross your fingers, trusting you’ll be believed. Human arrogance, ignorance and incompetence, the inability to foresee the tragic outcome of this relocation are the real problem.

But what about the Great Blue Heron’s relocation to Gull Park in the Port of Long Beach? After all, they and not the Black-crowned Night Herons, are the species of interest at Villa Venetia. Two weeks ago, Dr. Froke wrote the following extremely

misleading remarks about the Great Blue Herons in the Port of Long Beach: “Originally, GBH were attracted to the translocation site along with Black-crowned Night Heron from the outset of the project.... Over the course of nearly ten years, during which time BCNH have not recovered their numbers, GBH have done so; and as of this past season (2006) there were between 20-22 nesting pairs of the species to comprise the POLB.” (Memo to Michael Fischer, October 12, 2006).

These remarks would seem to the casual or non-scientific reader like a description of successful Great Blue Heron relocation or translocation of their nesting trees from one place to another, like what’s being proposed at Villa Venetia. Let’s look closer at the apparent deception involved here.

1. The 1998 baseline report studying the birds to be relocated to Gull Park indicates that there were no Great Blue Herons at the original site to begin with. So any Great Blue Herons at the relocation Gull Park site were not relocated there by the relocation effort. They came from somewhere else but Dr. Froke writes about these GBH as if he is showing that you can recruit birds from an original specific site to a new or “translocation” site. In other words, Dr. Froke cites irrelevant evidence of relocation or translocation and clearly writes as if it is relevant.
2. Then Dr. Froke suddenly shifts gears and tells you that in 2006 there were 20-22 nesting pairs of Great Blue Herons in the Port of Long Beach. But the POLB is a much bigger area than the relocation sight called Gull Park. At Gull Park, according to the 2006 report, only 5 Great Blue Heron nests were active in 2006 (p. 3) That’s actually a decline from earlier years of GBH nesting at Gull Park, but of course this is all irrelevant because none of these five nesting pairs relocated from the original sight to begin with.

As an undergraduate student a mere few years ago, I was assigned to read the textbook “How to *Lie With Statistics.*” (Italics mine) I leave it for now to the designing, planning and supervisory bodies of this County to decide whether or not Dr. Froke has taken a page out of my undergraduate textbook.

I love these birds. I do not know whether I am more saddened or disgusted by what I have just reviewed with you. I hope that the County takes immediate action to address the credibility gap I have proven.